

2004 - Resource and Environment Senate Pending Rule (Yellow)

ADMINISTRATIVE RULES REVIEW

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Legislative Session 2004

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IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-103, 36-104(b), and 36-412, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Requires a parent or designated adult to attend the live firing portion of hunter education with the student; defines the term "accompany" to mean within normal conversational distance; corrects an obsolete reference to the course fee; and adds required sections to the chapter.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 137 and 138.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 12th day of November, 2003.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 02

RULES GOVERNING PUBLIC SAFETY

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 137 and 138.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 16, 2002.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-103, -104(b), and -412, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Requires a parent or designated adult to attend the live firing portion of hunter education with the student; defines the term 'accompany' to mean within normal conversational distance; corrects an obsolete reference to the course fee; and adds required sections to the chapter.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to hunter education students and to the hunter education program.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to continue the program, and the lack of identifiable representatives of affected interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ron Fritz (208) 287-2884.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 27th day of August, 2003.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division / Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho, 83707
(208)334-3715
Fax (208)3342148

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0102-0301

000. LEGAL AUTHORITY.

The Idaho Fish and Game Commission is authorized under Sections 36-103, 36-104(b) and 36-412, Idaho Code, to adopt rules concerning education programs in hunting and archery. (12-16-02)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.02.000, et seq., Rules of the Idaho Fish and Game Commission, IDAPA 13.01.02, "Rules Governing Public Safety". (12-16-02)T

02. Scope. These rules establish criteria for education programs in hunting and archery. (12-16-02)T

002. WRITTEN INTERPRETATIONS.

This agency has no written interpretations of these rules. (12-16-02)T

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission," and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". 12-16-02)T

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (12-16-02)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office is located at 600 South Walnut, Boise, Idaho, and is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is P.O. Box 25, Boise, Idaho 83707. (12-16-02)T

010. DEFINITIONS.

01. Accompanied. The term "accompanied" as used in the requirement for a Youth Hunter Education Graduate License holder or Youth Small Game License holder shall mean close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. (12-16-02)T

00011. -- 099. (RESERVED).

100. HUNTER EDUCATION.

01. Mandatory Hunter Education Program. All students being certified under this program must have successfully completed at least ten (10) hours of instruction in firearms safety, wildlife management, wildlife law, hunter ethics, first aid/survival, plus practical experience in the handling and shooting of firearms. (7-1-93)

02. Fees. A fee ~~of two dollars (\$2)~~ as established by Section 36-412(c), Idaho Code, shall be charged each student enrolling in the Hunter Education Program. (7-1-93)(12-16-02)T

03. Parent To Attend Live Fire Exercise With Student. For students under the age of twelve (12), a parent, legal guardian or other adult designated by the parent or legal guardian shall attend the Hunter Education Live Fire Exercise with the student. Preferably, the adult attending the live fire exercise should be the same adult who will accompany the student into the field while hunting. This requirement is mandatory for successful completion of the Hunter Education Course. (12-6-02)T

101. -- 999. (RESERVED).

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IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-103, 36-104(b), 36-408(5), 36-409A, and 36-1101(b)(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 139 through 148.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 12th day of November, 2003.

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IDAPA 13, TITLE 01, CHAPTER 04

RULES GOVERNING LICENSING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 139 through 148.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 16, 2002, January 21, 2003, April 28, 2003, and July 14, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 36-103 and -104(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Sections 303 and 304. Allow physician assistants and nurse practitioners to sign the Handicapped Vehicle Shooting Permit application and Handicapped Archery Permit application in addition to physicians. This will allow affected persons to complete the application process in a timely and less expensive manner.

Sections 500, 506, and 600. Annual adjustment of nonresident deer and elk tag quotas, and outfitter set-aside tag quotas. Implement a controlled hunt drawing for Southeast Idaho Deer Tags because of steady nonresident hunter demand for a limited number of tags. Allow the Department to use a waiting list to distribute unsold outfitter allocation tags. Exempt the statutorily created Junior Mentored Deer Tag from being counted for the nonresident deer and elk tag quotas.

Section 602. Establish a "raincheck" and refund procedure for military personnel who are deployed to Operation Iraqi Freedom and may have purchased Idaho hunting licenses and tags for the 2003 season.

Sections 700 and 800. Remove the once-in-a-lifetime limit for the special lottery and auction Bighorn Sheep Tags to increase the marketability of these special tags.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Section 303 and 304. The temporary rule confers a benefit to handicapped persons.

Sections 500, 506, and 600. The temporary rule confers a benefit to sportsmen and outfitters by allowing the orderly sale of deer and elk tags for the next hunting season.

Section 602. The temporary rule confers a benefit to military personnel who are serving their country. This rule will allow affected military personnel to receive a refund for hunting licenses and tags purchased, or exchange the licenses or tags for next year.

Sections 700 and 800. The temporary rule confers a benefit to sportsmen and outfitters by allowing an increased number of potential hunters to purchase lottery tickets or bid on these tags for the next hunting season.

Section 303 and 304. The temporary rule confers a benefit to handicapped persons.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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NEGOTIATED RULEMAKING:

Sections 303 and 304. Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to allow for addressing the concerns of handicapped persons, and the lack of identifiable representatives of affected interests.

Sections 500, 506, and 600. Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to allow for tag sales and the determination that affected interests are not likely to reach a consensus on a proposed rule.

Section 602. Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to allow for addressing the concerns of affected military personnel, and the lack of identifiable representatives of affected interests.

Sections 700 and 800. Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to allow for tag sales and the determination that affected interests are not likely to reach a consensus on a proposed rule. The Department did consult with the Foundation for North American Wild Sheep on this temporary and proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Barton (208) 287-2800.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 27th Day of August, 2003.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
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(208)334-3715, Fax (208)3342148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0104-0301

303. HANDICAPPED PERSONS MOTOR VEHICLE HUNTING PERMITS.

01. Applications For Handicapped Motor Vehicle Hunting Permits. (7-1-93)

a. Applications for handicapped motor vehicle hunting permits shall be on a form prescribed by the Department or an individual may present their valid Idaho driver's license in lieu of the prescribed department form if the individual meets the disability requirements of Section 49-117(7)(b), Idaho Code, except for blindness, and the driver's license is appropriately marked as disabled. Only eligible applicants may submit such applications. (5-3-03)

b. Individuals using the department form for a handicapped motor vehicle must complete and sign the application form. Nonresident applicants must have their signature notarized. Each application submitted on the department form shall be accompanied by certification from the applicant's physician, physician assistant, or nurse

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practitioner stating which of the criteria set forth in Idaho Code, Section 36-1101 qualifies the applicant and why. The physician, physician assistant, or nurse practitioner shall also certify that the applicant is capable of holding and firing, without assistance from other persons, legal firearms or archery equipment. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a photo copy of the physician's, physician assistant, or nurse practitioner's medical license must accompany the application. Physicians, physician assistants, or nurse practitioners must check the appropriate box for short-term or long-term disability on the application. If the disability is short term and physical mobility is expected to improve, the physician, physician assistant, or nurse practitioner must include a date when the disability is expected to end. ~~(5-3-03)~~(7-14-03)T

02. Handicapped Motor Vehicle Hunting Permits. (7-1-93)

a. Handicapped motor vehicle hunting permits shall be issued only by the Director of the Department or his representative and shall expire no later than December 31 of the fifth year following the date of issuance. (5-3-03)

b. The permit shall be prominently displayed on any vehicle from which the person is hunting. Where applicable, the permit shall be displayed on the driver's side of the dashboard of the parked vehicle, suspended from the rearview mirror, or otherwise displayed so as to be in plain view of any person looking through the windshield of the vehicle. (7-1-93)

304. HANDICAPPED ARCHERY PERMIT.

01. Applications For Handicapped Archery Permits. (3-20-97)

a. Applications for handicapped archery permits shall be on a form prescribed by the Department. Only eligible applicants may submit such applications. (3-20-97)

b. Applicants shall sign the application. Nonresident applicants must have their signature notarized. Each application shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating that the applicant has a permanent disability whereby he does not have use of one (1) or both of his arms or hands. The physician, physician assistant, or nurse practitioner shall also certify that the applicant is capable of holding and firing, without assistance from other persons, a crossbow. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a photo copy of the physician's, physician assistant, or nurse practitioner medical license must accompany the application. ~~(7-1-98)~~(7-14-03)T

02. Handicapped Archery Permits. (3-20-97)

a. Handicapped archery permits shall be issued only by the Director of the Department and shall expire on December 31 of the fifth year following the date of issuance. (3-20-97)

b. The handicapped archery permit shall be carried on the person of anyone participating in an archery only season with the use of a crossbow and produced upon request on an officer. (3-20-97)

c. The handicapped archery permit shall allow the holder thereof to participate in an archery only hunt with the use of a crossbow. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

500. NONRESIDENT DEER AND ELK TAG OUTFITTER SET-ASIDE.

01. **Tags.** The following number of nonresident deer tags and nonresident elk tags shall annually be set aside and reserved for sale to persons who have entered into an agreement to utilize the services of an outfitter who is licensed under Chapter 21, Title 36, Idaho Code. For the ~~1997~~ each Hunting Season: ~~(7-1-99)~~(12-16-02)T

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- a. One thousand nine hundred (1,900) deer tags (regular or Clearwater); (7-1-99)
- b. ~~One hundred thirty~~ Eighty-five (~~130~~85) S.E. Idaho Area deer tags; (~~7-1-98~~)(12-16-02)T
- c. Two thousand ~~two~~ four hundred (2,2400) elk tags (A or B tags for all zones ~~except the Panhandle zone~~); (~~7-1-99~~)(12-16-02)T
- d. ~~Two hundred (200) Panhandle zone elk tags (A or B tags).~~ (7-1-99)
- 02. Restrictions.** These tags shall be sold on a first-come, first-serve basis through June 30 of each year. Application for purchase of these tags shall be made by the outfitter for the nonresident on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the nonresident hunter has a contract to hunt with the outfitter making application. (7-1-93)
- 03. Unsold Tags.** Any tags not sold by July 1 of each year shall be sold by the Department to nonresidents on a first-come, first serve basis. If there is a waiting list of individuals desiring a tag for the species available, those individuals will be first served. Application shall be made only to the Headquarters office of the Department of Fish and Game in Boise, Idaho. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

506. DEER AND ELK OUTFITTER ALLOCATED TAG.

01. Allocated Tags. ~~The following number of~~ Deer and elk tags shall annually be allocated for sale to persons who have entered into a signed agreement to utilize the services of an outfitter who is licensed in that zone under Title 36, Chapter 21, Idaho Code.

FOR THE 2001 ELK HUNTING SEASON				
Zone	Units	Dates, Inclusive	Total Tags	Outfitter Allocation
Lolo B Tags	10, 12	Oct 10 — Nov 3	1600	236
Selway B Tags	16A, 17, 19, 20	Sep 15 — Sep 30 Nov 1 — Nov 18	1255	356
Middle Fork A Tags	20A, 26, 27	Oct 1 — Oct 31	1551	209
Middle Fork B Tags	20A, 26, 27	Sep 15 — Sep 30 Nov 1 — Nov 18	1636	444
Boise River B Tags	39	Oct 15 — Oct 24	3,300	18

(~~3-15-02~~)(12-16-02)T

02. Distribution Of Allocated Tags. Allocated tags shall be sold by the Department, as designated by IDAPA 25.01.01, "Rules of Idaho Outfitters and Guides Licensing Board," Section 057, to hunters with signed agreements with licensed outfitters in those zones with a cap on the number of tags sold. In zones where resident and nonresident deer and/or elk tags are issued by lottery, allocated tags will be issued by lottery. Application for the purchase of allocated tags shall be made by the outfitter for the hunter on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the hunter has a signed agreement to hunt with the outfitter making application. (7-1-99)

03. Designated Buyers. Purchasers of allocation tags who return their unused tag and a notarized

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affidavit stating that the tag buyer has not hunted may designate another person to purchase a replacement tag. If the original buyer does not make a designation, the outfitter may make the designation. The designated buyer must pay the regular fee for the replacement tag. (7-1-99)

04. Unsold Tags. Any allocation tags not sold by August 1 of each year shall be sold by the Department ~~on a first come, first serve basis. The Department may use~~ through a waiting list methodology ~~to issue unsold tags. Applications shall be made only to the headquarters office of the Idaho Department of Fish and Game in Boise, Idaho.~~ (7-1-99)(12-16-02)T

507. -- 599. (RESERVED).

600. NONRESIDENT DEER AND ELK TAG QUOTAS.

01. Tag Quotas. The following number of deer tags and elk tags shall be set aside annually and reserved for sale to nonresidents: (3-20-97)

- a.** Twelve thousand eight hundred (12,800) regular or Clearwater deer tags; (7-1-99)
- b.** ~~Eleven~~ Twelve thousand ~~eight hundred fifteen~~ (12,815) A or B elk tags for all zones ~~except the Panhandle zone;~~ (7-1-99)(12-16-02)T
- c.** ~~One thousand eight hundred fifteen~~ (1,815) Panhandle zone elk tags; and (7-1-99)
- d.** One thousand two hundred (1,200) S.E. Idaho area Deer tags. (7-1-98)

02. Exceptions. Sales of nonresident deer and elk tags to the following persons shall not be counted in the quota: (7-1-93)

a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (7-1-93)

b. Designated Buyers: Nonresident tag buyers who return their unused nonresident deer or elk tag and a notarized affidavit stating that the tag buyer has not hunted may designate another nonresident to purchase an additional tag. If the original buyer does not make a designation and has retained an outfitter or guide, the outfitter or guide may make the designation. The designated buyer must pay the regular fee for the replacement tag. If no designation is made by either the original buyer or the outfitter or guide, the Department may sell the replacement tag on a first-come, first-serve basis. (7-1-93)

c. Successful nonresident controlled hunt applicants who have not purchased a tag as of the date of the controlled hunt drawing. (7-1-93)

d. Junior mentored tag holders. (12-16-02)T

03. Refunds. The fee for any nonresident license (as defined in I.C. 36-202(z)) shall not be refunded for any reason except as follows. (7-1-98)

a. Hunting license and general season deer and elk tag refunds due to death, illness/injury or military deployment of licensee. Non-resident general season deer or elk tag fees and prerequisite hunting license fee may be refunded for death of licensee; illness or injury of licensee which totally disabled the licensee for the entire length of any applicable hunting season; or military deployment of licensee due to an armed conflict. Refund must be substantiated by death certificate, published obituary, written justification by a licensed medical doctor, copy of military orders, or other similar substantiating documents. The hunting license fee will not be refunded if it was used to apply for any controlled hunt or to purchase a turkey, mountain lion, or bear tag. The amount refunded will be the amount of the applicable deer or elk tag and hunting license less all issuance fees and a fifty dollar (\$50) processing fee. The refund request must be postmarked on or before December 31 of the calendar year in which the license and tags were valid. (7-1-98)

b. General season deer and elk tag refunds for other than death, illness/injury, or military deployment

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of licensee. Non-resident general season deer or elk tag fees may be refunded for any reason other than death of the licensee; illness or injury of licensee which totally disables the licensee for the entire length of all applicable seasons; or military deployment of licensee due to an armed conflict. The request for the refund must be postmarked in the year in which the tag is valid. The hunting license fee will not be refunded. The refund will be based on the following sliding scale as a percent of the deer or elk tag fee.

Postmarked	Percent of Fee Refunded
Before April 1	75%
in April through June	50%
in July and August	25%
September through December	0%

(7-1-98)

c. Department Error. The department determines that a department employee made an error in the issuance of the license. (7-1-98)

d. Submission Requirements. All refund requests must be in writing and be accompanied with the original copy of the license or tag. (7-1-98)

e. Effective. These changes will be effective with the 1997 licenses and tags. (7-1-98)

04. Sale Of Unsold Nonresident Deer And Elk Tags To Residents. Any unsold nonresident deer or elk tags may be sold to residents and to nonresidents as a second tag, at the nonresident deer or elk tag price, beginning September 1. All privileges and restrictions associated with the use of the nonresident deer or elk tag will apply equally to residents who purchase a nonresident deer or elk tag. (3-15-02)

05. S.E. Idaho License/Tag Application And Drawing. (12-16-02)T

a. Nonresidents must submit application to the Idaho Department of Fish and Game headquarters license section to be eligible to receive an Idaho S.E. deer tag. The application period will be for the two (2) consecutive months from December 1 through January 31, and received by the license section no later than February 5 for the current year's license. The Idaho Department of Fish and Game is not responsible for lost or late applications. (12-16-02)T

b. Applications must be submitted on a department-approved form. (12-16-02)T

c. Only those eligible to purchase an Idaho hunting license at the time of application are eligible to apply for the S.E. deer tag. (12-16-02)T

d. A nonrefundable application fee of six dollars and fifty cents (\$6.50) must be submitted with the application. (12-16-02)T

e. At the time of application, the applicant must submit the nonrefundable application fee, the hunting license fees (if applicable), and the fees for the S.E. deer tag. Those successful in the drawing will receive the appropriate hunting license (if applicable) and the S.E. deer tag. Those who are unsuccessful will receive a refund of the license fee (if applicable) and the S.E. deer tag fees. (12-16-02)T

f. Group applications may be submitted. A group application may consist of up to four (4) individuals. All required information must be submitted in the same envelope to be considered as a group application. If a group application is selected in the random drawing, then each applicant will receive a hunting license (if applicable) and a S.E. deer tag. (12-16-02)T

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g. Applications received after the deadline will be processed through the drawing but will be ineligible to draw. The appropriate license and tag fees will be refunded. (12-16-02)T

h. Applications with insufficient fees will be processed through the drawing but will be ineligible to draw. The appropriate license and tag fees will be refunded (if applicable). (12-16-02)T

i. Computer drawing: To ensure fairness to all applicants, the drawing will be conducted using the existing department controlled hunt drawing processes. A random computer selection will determine successful applicants. If the applicant is successful, the license (if applicable) and deer tag will be issued and mailed to the customer within fifteen (15) days of the drawing date. License (if applicable) and tag fees will be refunded to unsuccessful applicants in the form of a state warrant. All refunds will be issued in the name of the applicant, regardless of who submitted the original payment for the application. (12-16-02)T

j. Those applying for the S.E. deer tag will not affect their ability to apply for controlled hunts. (12-16-02)T

k. Those unsuccessful in drawing a S.E. deer tag will be placed on a waiting list randomly in case the department receives returned unused tags for refunds or controlled hunt exchanges. These tags will be sold to the individuals on the list in order of standing on the waiting list. (12-16-02)T

l. All other existing refund rules apply to those who have successfully drawn and have been issued the S.E. Idaho deer tag. (12-16-02)T

(BREAK IN CONTINUITY OF SECTIONS)

602. SPECIAL OPERATION IRAQI FREEDOM REFUND AND RAIN CHECK.

01. 2003 Special Refund And Rain Check Rule. This special refund and rain check rule applies only to the 2003 hunting season. Because of military deployment to Operation Iraqi Freedom, some hunters will be unable to hunt big game animals for which they purchased tags in the state of Idaho. (4-28-03)T

02. 2004 Special Refund And Rain Check Eligibility. Hunters who have purchased tags and who can show in good faith they could not participate in hunting activities due to military deployment for Operation Iraqi Freedom will be eligible for a refund or rain check for license and tags for the 2004 hunting season as outlined in this rule. (4-28-03)T

03. General Season Tag. Holders of a general season tag for deer or elk may request: (4-28-03)T

a. A refund of the hunting license and tag fee; (4-28-03)T

b. A rain check for a hunting license and same tag for the 2004 hunting season; or (4-28-03)T

c. An exchange in 2003 for a tag in another zone or area so long as tags are available in that area or zone. (4-28-03)T

04. Controlled Hunt Permit And Tag. Holders of a controlled hunt permit and tag for deer, elk, or antelope may request: (4-28-03)T

a. A refund of the hunting license, controlled hunt permit, and tag fee; (4-28-03)T

b. A rain check for a hunting license, controlled hunt permit, and tag for the same controlled hunt in the 2004 hunting season; or (4-28-03)T

c. An exchange in 2003 for a hunting license and a general season tag in another zone or area so long

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as tags are available in that area or zone. (4-28-03)T

05. Nonresident Bear Or Mountain Lion Tags. Holders of nonresident bear or mountain lion tags may request: (4-28-03)T

a. A refund of the hunting license and tag fee; or (4-28-03)T

b. A rain check for a hunting license and tag for the 2004 hunting season. (4-28-03)T

06. Moose, Bighorn Sheep, Or Mountain Goat Controlled Hunt Permits. Holders of moose, bighorn sheep, or mountain goat controlled hunt permits may request: (4-28-03)T

a. A refund of the hunting license, controlled hunt permit, and controlled hunting tag fee; or (4-28-03)T

b. A rain check for a hunting license, controlled hunt permit, and controlled hunt tag for the 2004 hunting season. (4-28-03)T

07. Ineligible To Request Tag Or Permit Refund Or Rain Check. If the person hunts a species of wildlife before requesting a refund or rain check, then the tag or permit fee for that species will not be refunded or eligible for a rain check for the 2004 season. (4-28-03)T

08. Ineligible To Request License Fee Refund Or Rain Check. If the person hunts for any species during the 2003 season before requesting a refund or rain check, then the hunting license fee will not be refunded or eligible for a rain check for the 2004 season. (4-28-03)T

09. Rain Check Requests Must Be For Same Species. All rain check requests must be made for the same species. For example, a deer tag will not be eligible for a rain check of an elk tag in the 2004 season. (4-28-03)T

10. Refunds Will Be For The Amount Paid. All refunds will be for the amount the person paid for the hunting license or tag. (4-28-03)T

10. Use Of Department-Approved Form For Rain Check or Refund Request. Resident and nonresident military personnel who have purchased general season tags or controlled hunt tags and are unable to participate in any hunting activities due to military deployment must submit a request for a refund or rain check on the department-approved form (found on Idaho Fish and Game website www2.state.id.us/fishgame) by January 1, 2004, along with a copy of their deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty in Operation Iraqi Freedom. Those requests received after this date will not be eligible for the special refund or rain check. (4-28-03)T

6023. -- 699. (RESERVED).

700. SPECIAL BIGHORN SHEEP PERMIT/TAG.

01. Eligibility. In order to be eligible to bid on the special bighorn sheep tag, a person must: (3-15-02)

~~**a.** Be~~ eligible to purchase an Idaho hunting or combination license; ~~and~~ (3-15-02)(1-21-03)T

~~**b.** Not have killed both a California and a Rocky Mountain bighorn sheep.~~ (3-15-02)

02. Validity Of Tag. The Special Bighorn Sheep Permit/Tag shall be valid ~~for use only as follows:~~ (3-15-02)

~~**a.** If the successful bidder has killed a California bighorn sheep south of Interstate Highway 84 since 1974, the tag shall be valid ONLY for the taking of Rocky Mountain bighorn sheep north of Interstate 84, EXCEPT~~

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~~that the Special Bighorn Permit/Tag shall be valid~~ in Unit 11 only during odd-numbered years and during even-numbered years when the Bighorn Sheep Lottery Permit/Tag holder chooses not to hunt in Unit 11.

~~(3-15-02)(1-21-03)T~~

~~b. If the successful bidder has killed a Rocky Mountain bighorn sheep north of Interstate Highway 84 since 1974, the tag shall be valid ONLY for the taking of California bighorn sheep south of Interstate 84.~~ (3-15-02)

~~c. If the successful bidder has NOT killed either subspecies of bighorn sheep in Idaho, the tag shall be valid during any controlled hunt open for either California or Rocky Mountain bighorn sheep.~~ (3-15-02)

03. License And Permit. A hunting license and permit will be provided to the successful bidder from the net proceeds of the auction. (7-1-93)

04. Application Of Big Game Rules. All rules governing the Taking of Big Game Animals, IDAPA 13.01.08, shall apply to the eligible and successful bidders other than as specified herein. (7-1-93)

a. No successful bidder shall be eligible to apply for a bighorn sheep controlled hunt permit tag the same year the bidder is issued a Special Bighorn Sheep Permit/Tag. (3-30-01)

b. A person receiving a Special Bighorn Sheep Permit/Tag, but who is unsuccessful in taking a bighorn sheep, shall be eligible to bid the following year for another Special Bighorn Sheep Permit/Tag. (3-15-02)

c. A person successful in taking a bighorn sheep with a special bighorn sheep tag shall be eligible to bid the following year ~~for the other subspecies of bighorn sheep.~~ ~~(3-15-02)(1-21-03)T~~

701. -- 799. (RESERVED).

800. BIGHORN SHEEP LOTTERY PERMIT/TAG.

01. Eligibility. (7-1-93)

a. In order to win and be issued the Bighorn Sheep Lottery Permit/Tag, a person must be eligible to purchase an Idaho hunting or combination license EXCEPT that the Lottery Permit/Tag shall be valid in Unit 11 only during even-numbered years and during odd-numbered years when the Special Bighorn Sheep Permit/Tag holder chooses not to hunt in Unit 11. (3-15-02)

b. If any person wins the Bighorn Sheep Lottery Permit/Tag and has already been drawn for a bighorn sheep controlled hunt permit for the same year, the controlled hunt permit shall be returned to the Department and voided and the permit/tag fees refunded. The lottery tag will be valid to hunt bighorn sheep that year. (7-1-93)

02. Validity Of Tag. The Bighorn Sheep Lottery Permit/Tag shall be valid ~~for use only as follows:~~ ~~(3-15-02)~~

~~a. If the lottery tag winner has killed a California bighorn sheep south of Interstate Highway 84 since 1974, the tag shall be valid ONLY for the taking of Rocky Mountain bighorn sheep north of Interstate 84 EXCEPT that the Lottery Permit/Tag shall be valid~~ in Unit 11 only during even-numbered years and during odd-numbered years when the Special Bighorn Sheep Permit/Tag holder chooses not to hunt in Unit 11. ~~(3-15-02)(1-21-03)T~~

~~b. If the lottery tag winner has killed a Rocky Mountain bighorn sheep north of Interstate Highway 84 since 1974, the tag shall be valid ONLY for the taking of California bighorn sheep south of Interstate 84.~~ (3-15-02)

~~c. If the successful bidder has NOT killed either subspecies of bighorn sheep in Idaho, the tag shall be valid during any controlled hunt open during the year of issue, for either California or Rocky Mountain bighorn sheep.~~ (3-15-02)

03. Permit. A permit and tag will be provided to the lottery tag winner from the net proceeds of the lottery. (7-1-93)

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04. Application Of Big Game Rules. All Rules Governing the Taking of Big Game Animals shall apply to the eligible ticket purchasers and lottery tag winner, other than as specified herein. (7-1-93)

~~**a.** No lottery tag winner shall have killed both a California and a Rocky Mountain bighorn sheep.~~
(3-15-02)

ba. A person receiving a bighorn sheep lottery tag shall be eligible to purchase lottery tickets the following year for another bighorn sheep lottery tag. (3-30-01)

eb. A person successful in taking a bighorn sheep with a bighorn sheep lottery tag shall be eligible to purchase lottery tickets the following year ~~for the other subspecies of bighorn sheep.~~ (3-15-02)(1-21-03)T

dc. Any person who wins a Bighorn Sheep Lottery Permit/Tag, and who is otherwise eligible to apply for a deer, elk or antelope controlled hunt permit, shall be allowed to apply for a permit for those species during the same year the Bighorn Sheep Lottery Permit/Tag is valid. (3-30-01)

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IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103 and 36-104(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 149 through 156.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 12th day of November, 2003.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25
Boise, ID 83707
Telephone: 208-334-2715
FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 08

RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 149 through 156.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is March 17, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 36-103 and -104(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Apply the 10% Nonresident controlled hunt permit limitation to all hunts for a species, instead of to individual hunts. Establish an ATV or motorized vehicle use restriction as an aid to hunting in identified hunts in certain big game management units. Also, establish a process for issuing late mandatory harvest reports and requiring filing with the Department.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to sportsmen by clarifying the 10% Nonresident controlled hunt permit limitation, addressing sportsmen requests to limit motor vehicle use as an aid to hunting, and establishing a process for filing a late mandatory harvest report.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to address the concerns for the current year's hunting seasons, and the determination that affected interests are not likely to reach a consensus on a proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brad Compton (208) 287-2756 or Steve Barton (208) 287-2800.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 27th Day of August, 2003.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho, 83707
(208)334-3715, Fax (208)3342148

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0108-0301

260. PERMITS FOR CONTROLLED HUNTS.

01. Use Of Controlled Hunt Permits. No person may hunt in any controlled hunt without having a valid controlled hunt permit in possession. (7-1-93)

a. A controlled hunt area with an "X" suffix is an extra tag hunt. (10-26-94)

b. In the event a permit is issued based on erroneous information, the permit will be invalidated by the Department and may NOT be used. The Department will notify the permittee of the invalidation of the permit. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (7-1-93)

c. Any person who receives a controlled hunt permit and tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT the holder of a deer controlled hunt permit and tag may purchase a tag for and hunt in an extra tag hunt, or controlled hunt permit/extra tag hunt for deer. (3-20-97)

d. Any person who receives a combination controlled hunt permit/extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (7-1-93)

e. Any person who receives a controlled hunt permit for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT a controlled hunt permit holder may purchase a tag for and hunt in an extra tag hunt for elk. (7-1-93)

f. Any person who receives a combination controlled hunt permit/tag for antelope is prohibited from hunting in any archery antelope hunt. The holder of an antelope combination controlled hunt permit/extra tag may apply for a combination controlled hunt permit/tag for antelope or may purchase a tag for an archery antelope hunt. (7-1-93)

g. Any person who receives a spring controlled hunt permit for black bear is prohibited from hunting in any other spring bear hunt - April 15 to June 30. (7-1-99)

h. Any person who receives a fall controlled hunt permit for black bear is prohibited from hunting in any other fall bear hunts--September 15 to October 31. (10-26-94)

02. Nonresident Permit Limitations. (3-17-03)T

a. In controlled hunts with ten (10) or fewer permits, not more than one (1) nonresident permit will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) permits, not more than ten percent (10%) of the permits will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt only. (~~7-1-98~~)(3-17-03)T

b. Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-17-03)T

c. For each species, the total number of outfitter allocated controlled hunt permits shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt permits; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt permits that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (3-17-03)T

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

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- a.** Holders of a Nongame Hunting License (Type 208) or Two-day (2) Deer License (Type 132) may not apply for any controlled hunt. (10-26-94)
- b.** Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn permit for two (2) years. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat permit for two (2) years. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of permits nor Landowner Preference Permits. EXCEPT all successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags to hunt in any open general and/or controlled antelope, deer or elk hunt in the following hunting season. (3-15-02)
- c.** Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, or a designated depredation or extra tag hunt for deer, elk or antelope. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in first-come, first-served deer, elk and antelope controlled hunt permit sales. (10-26-94)
- d.** Any person who has killed a California bighorn ram, Rocky Mountain bighorn ram or a moose on any controlled hunt may not apply for a permit for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram permit for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram permit for any hunt south of Interstate Highway 84. Auction tag and lottery tag winners are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-5-00)
- e.** No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)
- f.** Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt permit for five (5) years. The harvest of a bighorn ewe does not make the permittee ineligible to apply for a permit to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (7-1-93)
- g.** Any person who has killed a mountain goat since 1977 may not apply for a mountain goat permit. (7-1-93)
- h.** Any person who has killed a moose in Idaho may not apply for a moose permit. (4-5-00)
- i.** Any person holding a Nonresident Hunting License (Type 202) or a duplicate thereof may not apply for a moose permit. (7-1-93)
- j.** Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (7-1-98)
- k.** Any person may apply for both a controlled hunt permit/tag and a controlled hunt permit/extra tag. (7-1-93)
- l.** Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs". (7-1-99)

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04. Applications. Individual applications or group applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. (10-26-94)

a. Moose, bighorn sheep, and mountain goat - April 30. (7-1-93)

b. Deer, elk, antelope and fall black bear - May 31. (3-20-97)

c. Spring black bear - February 16. (3-20-97)

05. Applicant Requirements. Applicants must comply with the following requirements: (7-1-93)

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt permit/extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (10-26-94)

b. Only one (1) controlled hunt permit/extra tag will be issued for each person on any application submitted. (10-26-94)

c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt permit/tag hunts or controlled hunt permit/extra tag hunts. (10-26-94)

d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is five dollars (\$5) per person per hunt, for deer, elk, antelope, moose, bighorn sheep, mountain goat, black bear, and lion, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, antelope, black bear, or mountain lion. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a permit tag in the mail. (7-1-98)

e. Any controlled hunt permits, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold forty five (45) days following the close of each respective controlled hunt drawing by any Point-of-Sale vendor on a first-come, first-served basis UNLESS such day is a Sunday, in which case the permits will go on sale the next legal business day. A controlled hunt permit and tag will be issued to successful applicants. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-15-02)

f. A "group application" for deer, elk, and antelope is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (10-26-94)

g. A "group application" for moose, bighorn sheep, mountain goat, and black bear is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (10-26-94)

h. If a group application exceeds the number of permits available in a hunt that group application will not be selected for that hunt. (7-1-98)

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i. Landowner permission hunt permits will be sold first-come, first-served basis at the Nampa, McCall and Headquarters offices of the Idaho Department of Fish and Game after July 15. (7-1-98)

06. Refunds Of Controlled Hunt Fees. (7-1-93)

a. Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

d. Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

07. Controlled Hunt Drawing. Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

410. UNLAWFUL METHODS OF TAKE.

No person shall take big game animals as outlined in this section. (7-1-93)

01. Firearms. (7-1-93)

a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (7-1-93)

b. With any shotgun using any shot smaller than double-aught (#00) buck. (7-1-93)

c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)

d. With a fully automatic firearm. (10-26-94)

e. With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope. (3-30-01)

02. Bows, Crossbows, Arrows, Bolts, Chemicals Or Explosives. (3-20-97)

a. With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteen-thousandths (0.015) inch thick. (7-1-93)

b. With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)

c. With any chemicals or explosives attached to the arrow or bolt. (7-1-93)

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- d.** With arrows or bolts having expanding broadheads. (7-1-93)
- e.** With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)
- f.** With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow. (3-30-01)
- g.** With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)
- h.** With any compound bow with more than sixty-five percent (65%) let-off. (7-1-93)
- i.** With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than four hundred (400) grains. (3-20-97)
- j.** With an arrow less than twelve (12) inches from the broadhead to the nock inclusive. (3-30-01)
- k.** With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)
- l.** During an ARCHERY ONLY season, with any firearm, crossbow (except disabled archers), or other implement other than a longbow, compound bow, or recurve bow, or: (3-20-97)

 - i. With any device attached that holds a bow at partial or full draw. (7-1-93)
 - ii. With any bow or crossbow equipped with magnifying sights. (3-20-97)
- m.** During a TRADITIONAL ARCHERY ONLY season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or: (3-15-02)

 - i. With an arrow not constructed of wood or fletched with non-natural material. (3-15-02)
 - ii. With any bow equipped with sights. (3-15-02)
- n.** With any crossbow pistol. (3-20-97)
- 03. Muzzleloaders.** (7-1-93)

 - a.** With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, antelope, or mountain lion, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-93)
 - b.** With any electronic device attached to, or incorporated in, the muzzleloader. (3-30-01)
 - c.** During a MUZZLELOADER ONLY season, with any firearm, muzzleloading pistol or other implement other than a muzzleloading rifle or musket which: (7-1-93)

 - i. Is at least forty-five (.45) caliber for deer, antelope or mountain lion or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. (7-1-93)
 - ii. Is capable of being loaded only from the muzzle. (7-1-93)
 - iii. Is equipped only with open or peep sights. (7-1-93)
 - iv. Is loaded only with black powder or, Pyrodex or other synthetic black powder. (3-20-97)
 - v. Is equipped with no more than two (2) barrels. (7-1-93)

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- vi. Is loaded only with a projectile of at least four hundred twenty-eight (.428) caliber. (3-20-97)
- vii. Is equipped only with flint or percussion cap. (3-20-97)
- d. During a TRADITIONAL MUZZLELOADER ONLY season, with any firearm other than a muzzleloader rifle or musket with an exposed hammer that pivots: (3-15-02)
 - i. Is loaded only with loose black powder or Pyrodex. (3-15-02)
 - ii. Is loaded only with a patched round ball projectile. (3-15-02)
- 04. Short-Range Weapon.** During Short-Range Weapon ONLY seasons ONLY the following weapons may be used: (7-1-99)
 - a. With any shotgun using any slug or double-aught (#00) or larger buckshot. (7-1-99)
 - b. With any muzzleloader that is at least forty-five (0.45) caliber for deer, antelope, or mountain lion or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-99)
 - c. With any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (7-1-99)
- 05. Other.** (7-1-93)
 - a. With electronic calls EXCEPT for the hunting of mountain lions in Units 41, 42 and that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486. (3-15-02)
 - b. With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include liquid scent) to constitute an attraction or enticement, with the exception of applicable rules for the black bear baiting permit. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.17, "Rules Governing the Use of Bait for Taking Big Game Animals". (3-30-01)
 - c. With dogs, EXCEPT for mountain lion or black bear. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.15, "Rules Governing the Use of Dogs". (7-1-93)
 - d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment. (7-1-93)
 - e. In Traditional Archery and Muzzleloader Hunts, the use of motorized vehicles shall be limited to public highways and improved highways which are open to public use. (3-15-02)
 - f. In Unit 47, motorized vehicle use as an aid to hunting for wildlife is restricted to established roadways open to motorized traffic capable of travel by full-sized automobiles. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (3-17-03)T
 - g. Motorized vehicle use as an aid to hunting for wildlife is restricted to established roadways open to motorized traffic capable of travel by full-sized automobiles in identified hunts in Units 32, 32A, 48, 49, 50, 51, 58, 59, 59A, 70, 72, 73, 75, 77, and 78. The hunts with a motorized vehicle restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (3-17-03)T

2004 - Resource and Environment Senate Pending Rule (Yellow)

421. MANDATORY DEER AND ELK REPORT REQUIREMENTS.

01. Mandatory Report Form. After an antelope, deer and/or elk is killed the hunter must accurately complete a Mandatory Report as provided by the Director. (3-15-02)

02. Mandatory Report. Any hunter that obtains an antelope, deer and/or elk tag and kills an antelope, deer and/or elk must submit a completed Mandatory Report to the Department or authorized agent, WITHIN TEN (10) DAYS OF KILL any hunter that obtains an antelope, deer and/or elk tag and does not successfully kill an antelope, deer and/or elk must submit a completed Mandatory Report Form to the Department or authorized agent WITHIN TEN (10) DAYS OF THE CLOSING DATE OF THE APPROPRIATE SEASON. (3-15-02)

03. Failure To Report. Failure to submit the required antelope, deer and/or elk Mandatory Report by January 31 of the following year as required in Subsection 421.02 will render the hunter ineligible to obtain any subsequent year's license until a Mandatory Report permit is filed with the Department or authorized agent. To be effective December 31, 2003. ~~(3-15-02)~~(3-17-03)T

04. Drawing For "Super" Tag. All successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags. Each hunter drawn for a "Super" controlled antelope/deer/elk hunt must notify the Department by May 1 of which species they have selected to hunt. The "Super" controlled hunt tag is valid for the selected species and allows the hunter to hunt in any open general and/or controlled hunt for the selected species in the following season. (3-15-02)

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.12 - RULES GOVERNING COMMERCIAL FISHING IN THE STATE OF IDAHO

DOCKET NO. 13-0112-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104(b), and 36-804, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 162 through 166.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 12th day of November, 2003.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25
Boise, ID 83707
Telephone: 208-334-2715
FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 12

RULES GOVERNING COMMERCIAL FISHING IN THE STATE OF IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 162 through 166.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.12 - RULES GOVERNING COMMERCIAL FISHING IN THE STATE OF IDAHO

DOCKET NO. 13-0112-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 16, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 36-104(b) and -804, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Add Lake Trout to the species list available for commercial harvest, set a limited commercial fishing season for Lake Trout in Lake Pend Oreille, allow the use of conventional rod and reel fishing for commercial fishing for Lake Trout, and add required sections to this chapter of rules.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1) (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit for potential commercial fisherman, and benefits fishery management for Kokanee in Lake Pend Oreille by encouraging harvest of Lake Trout.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to increase and encourage Lake Trout harvest in Lake Pend Oreille to benefit Kokanee management, and it was determined that affected interests are not likely to reach a consensus on a proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Yundt (208) 287-2777.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 27th Day of August, 2003.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho, 83707
(208)334-3715
Fax (208)3342148

2004 - Resource and Environment Senate Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0112-0301

000. LEGAL AUTHORITY.

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-804, Idaho Code, to adopt rules concerning commercial fishing. (12-16-02)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.12.000, et seq., Rules of the Idaho Fish and Game Commission, IDAPA 13.01.12, "Rules Governing Commercial Fishing". (12-16-02)T

02. Scope. These rules establish the criteria for commercial fishing in Idaho, identify waters where commercial fishing is allowed, and set standards for equipment. (12-16-02)T

002. WRITTEN INTERPRETATIONS.

This agency has no written interpretations of these rules. (12-16-02)T

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission," and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (12-16-02)T

004. INCORPORATION BY REFERENCE.

There are no documents which have been incorporated by reference into this rule. (12-16-02)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Idaho Fish and Game Commission and Idaho Department of Fish and Game is in Boise, Idaho. The Headquarters office is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707. (12-16-02)T

006. -- 009. (RESERVED).

010. DEFINITIONS.

01. Commercial Fishing. Fishing for, taking, or transporting fish or crustacea for the purpose of selling, bartering, exchanging, offering or exposing for sale. (7-1-93)

02. Commercial Non-Game Fish Species. Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03 of this rule, only the following ~~non-game~~ fish species may be taken for commercial purposes: (7-1-93)(12-16-02)T

- a. Bluehead sucker - *Catostomus discobolus*. (7-1-93)
- b. Bridgelip sucker - *Catostomus columbianus*. (7-1-93)
- c. Carp - *Cyprinus carpio*. (7-1-93)
- d. Chiselmouth - *Arocheilus alutaceus*. (7-1-93)
- e. Fathead minnow - *Pimephales promelas*. (7-1-93)
- f. Goldfish - *Carassius auratus*. (7-1-93)

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAHO FISH AND GAME COMMISSION Rules Governing Commercial Fishing

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- | | | |
|--------------|---|-------------|
| g. | Lake chub - <i>Couesius plumbeus</i> . | (7-1-93) |
| h. | Lake trout - <i>Salvelinus namaycush</i> | (12-16-02)T |
| h <i>j</i> . | Largescale sucker - <i>Catostomus macrochailus</i> . | (7-1-93) |
| i <i>j</i> . | Leatherside chub - <i>Gila copei</i> . | (7-1-93) |
| j <i>k</i> . | Leopard dace - <i>Rhinichthys falcatus</i> . | (7-1-93) |
| k <i>l</i> . | Longnose dace - <i>Rhinichthys cataractae</i> . | (7-1-93) |
| l <i>m</i> . | Mountain sucker - <i>Catostomus platyrhynchus</i> . | (7-1-93) |
| m <i>n</i> . | Northern squawfish - <i>Ptychocheilus oregonensis</i> . | (7-1-93) |
| o. | Peamouth - <i>Mylocheilus caurinus</i> . | (7-1-93) |
| p. | Redside shiner - <i>Richardsonius balteatus</i> . | (7-1-93) |
| q. | Speckled dace - <i>Rhinichthys osculus</i> . | (7-1-93) |
| r. | Tench - <i>Tinca tinca</i> . | (7-1-93) |
| s. | Tui chub - <i>Gila bicolor</i> . | (7-1-93) |
| t. | Utah chub - <i>Gila atraria</i> . | (7-1-93) |
| u. | Utah sucker - <i>Catostomus ardens</i> . | (7-1-93) |

03. Commercial Crustacea Species. Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03, only the Crayfish - species of the genus *Pacifastacus*, may be taken for commercial purposes. (7-1-93)

011. -- 099. (RESERVED).

100. LICENSES, TAGS AND PERMITS.

01. Licenses. Approved commercial gear may be set, operated, lifted or fished ONLY by the holder of a valid commercial fishing license to which the gear is registered or persons assisting in the presence of the licensee; except that any person assisting the holder of a commercial fishing license engaged in commercial fishing with the use of conventional rod and reel fishing tackle must either hold a commercial license or fishing license according to the Idaho Fish and Game Commission rules approved for sportfishing. The license must be in the possession of the licensee and made available at all times. ~~(7-1-93)~~(12-16-02)T

02. Tags. No person may set, operate, lift or fish commercial gear unless such gear has attached thereto valid commercial gear tags, except that no tags need be attached to conventional rod and reel fishing tackle used for commercial fishing. The Director of the Department of Fish and Game is authorized to issue special tags for experimental commercial gear under such conditions as the Director may deem appropriate. ~~(7-1-93)~~(12-16-02)T

- | | | |
|------------|--|----------|
| 03. | Permits. The Director may issue permits authorizing the holder thereof to: | (7-1-93) |
| a. | Commercially fish for non-game fish or crustacea not listed as commercial species. | (7-1-93) |
| b. | Commercially fish in waters other than those listed in Section 700. | (7-1-93) |
| c. | Such permits shall be valid for a period not to exceed one (1) year. | (7-1-93) |

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04. Revocation Of Licenses And Permits. The Director of the Department of Fish and Game is authorized to suspend, for a period not to exceed one (1) year, or revoke entirely, any commercial license or permit for violation of the Fish and Game Code or these rules by the licensee or persons acting under the licensee's direction and control. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

500. COMMERCIAL GEAR AND METHODS OF TAKE FOR FISH OR CRUSTACEA.

Fish or crustacea may be commercially harvested ONLY with the following gear and methods: (7-1-93)

- 01. With Seine Nets.** However, all seine nets must be either: (7-1-93)
- a.** Under constant attendance by the licensee or someone working under the supervision of the licensee; or (7-1-93)
- b.** If being used to hold fish, clearly marked with buoys that are at least twelve (12) inches in diameter. (7-1-93)
- 02. With Crayfish Or Minnow Traps, Not Exceeding Three Feet In Any Dimension.** However, all crayfish and minnow traps must be lifted and emptied of catch at least once every ninety-six (96) hours except during periods of weather that pose a threat to human life, health or safety. (7-1-93)
- 03. Experimental Gear.** With experimental gear approved by the Director pursuant to Subsection 100.02. (7-1-93)
- 04. By Hand.** For crayfish ONLY, by hand. (7-1-93)
- 05. Trawl Nets.** With trawl nets as approved by the Director. (7-1-93)
- 06. Conventional Rod And Reel Fishing Tackle.** Only methods approved for sportfishing, as described in Idaho Fish and Game Commission fishing rules, are permitted, except that the holder of a commercial license may use more than two (2) lines while commercially fishing. (12-16-02)T

(BREAK IN CONTINUITY OF SECTIONS)

700. COMMERCIAL FISHING AREAS.

Commercial harvest is allowed only in the following areas: (7-1-93)

- 01. For Seine Nets.** Seine nets with a mesh greater than one and one half (1 1/2") square may be used ONLY in the following waters, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b.:
- a.** Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. (7-1-93)
- b.** Ashton Reservoir. (7-1-93)
- c.** Palisades Reservoir. (7-1-93)
- d.** Lake Lowell. (7-1-93)

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- e. Black Canyon Reservoir. (7-1-93)
- f. Blackfoot Reservoir. (7-1-93)
- g. Mud Lake. (7-1-93)
- h. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

02. Minnow Traps. Minnow traps for commercial fish may be ONLY used in the following areas, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b. (7-1-93)

- a. Snake River excluding main stem impoundments from Weiser upstream to the confluence of the North and South Forks. (7-1-93)
- b. Ashton Reservoir. (7-1-93)
- c. Palisades Reservoir. (7-1-93)
- d. Black Canyon Reservoir. (7-1-93)
- e. Blackfoot Reservoir. (7-1-93)
- f. Mud Lake. (7-1-93)
- g. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

03. Crayfish Traps. Crayfish traps for commercial crustacea may be used ONLY in the following areas, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b.: (7-1-93)

- a. Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. (7-1-93)
- b. Black Canyon Reservoir. (7-1-93)
- c. Blackfoot Reservoir. (7-1-93)
- d. Mud Lake. (7-1-93)
- e. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

04. Rod And Reel And Experimental Gear, For Lake Trout Only. Rod and reel and experimental gear for lake trout only may be used in the following areas: (12-16-02)T

- a. Lake Pend Oreille. (12-16-02)T

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 20 - DEPARTMENT OF LANDS

20.06.01 - RULES OF PRACTICE AND PROCEDURE FOR CONTESTED CASES AND RULEMAKING BEFORE THE IDAHO BOARD OF SCALING PRACTICES

DOCKET NO. 20-0601-0301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1208, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The repeal of this chapter in its entirety eliminates rules that are no longer needed. Rules relating to informal hearings will be incorporated in IDAPA 20.06.02, "General Rules, Licensing, and Check Scales of the Idaho Board of Scaling Practices".

The pending rule is being adopted as proposed. The original proposed rulemaking notice of repeal was published in the September 3, 2003, Idaho Administrative Bulletin, Volume 03-9, page 201.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ernest H. Bauer at (208) 769-1445.

DATED this 1st day of October, 2003.

Ernest H. Bauer, Executive Director
Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, Idaho 83815-8918
Phone: (208) 769-1445 / Fax: (208) 769-1485

IDAPA 20, TITLE 06, CHAPTER 01

RULES OF PRACTICE AND PROCEDURE FOR CONTESTED CASES AND RULEMAKING BEFORE THE IDAHO BOARD OF SCALING PRACTICES

IDAPA 20.06.01 is repealed in its entirety.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, page 201.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 20 - DEPARTMENT OF LANDS

20.06.01 - RULES OF PRACTICE AND PROCEDURE FOR CONTESTED CASES AND RULEMAKING BEFORE THE IDAHO BOARD OF SCALING PRACTICES

DOCKET NO. 20-0601-0301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 38-1208, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Repeal of chapter in its entirety to eliminate rules that are no longer needed. Rules relating to informal hearings will be incorporated in a different chapter (IDAPA 20.06.02).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fees or charges are involved.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the chapter repeal simply eliminates unnecessary and outdated rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ernest H. Bauer at (208) 769-1445.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 18th day of July, 2003

Ernest H. Bauer
Executive Director
Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, Idaho 83815-8918
Phone: (208) 769-1445
Fax: (208) 769-1485

IDAPA 20.06.01 IS BEING REPEALED IN ITS ENTIRETY

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 20 - DEPARTMENT OF LANDS

20.06.02 - GENERAL RULES, LICENSING, AND CHECK SCALES OF THE IDAHO BOARD OF SCALING PRACTICES

DOCKET NO. 20-0602-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1208, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Section 67-5227, Idaho Code, allows a pending rule to vary from the proposed rule. Pursuant to this Section, the proposed rule has been amended by renumbering Sections 110 through 180 to 910 through 970 so that the Informal Hearing procedure is in a more logical place.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the September 3, 2003, Idaho Administrative Bulletin, Volume 03-9, pages 203 through 206.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Ernest H. Bauer at (208) 769-1445.

DATED this 1st day of October, 2003.

Ernest H. Bauer
Executive Director
Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, Idaho 83815-8918
Phone: (208) 769-1445
Fax: (208) 769-1485

IDAPA 20, TITLE 06, CHAPTER 02

GENERAL RULES, LICENSING, AND CHECK SCALES OF THE IDAHO BOARD OF SCALING PRACTICES

There are substantive changes from the proposed rule text.

**Only those sections that have changed from the original proposed
text are printed in this Bulletin following this notice.**

2004 - Resource and Environment Senate Pending Rule (Yellow)

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 4, 2003, pages 202 through 206.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 20-0602-0301

*Language That Has Been Deleted From The Original Proposed Rule
Has Been Removed And New Language Is Shown In Italics*

Subsections 010.01, 010.04, and 010.09

010. DEFINITIONS.

01. **Board.** The *State* Board of Scaling Practices. ()

04. **Complaint.** A *written* statement alleging a violation of the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code. ()

09. **Informal Hearing.** Any hearing before the Board of Scaling Practices, as opposed to a formal hearing before a hearing officer designated by the Board. ()

(BREAK IN CONTINUITY OF SECTIONS)

101. -- 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

SECTIONS 110 THROUGH 199 HAVE BEEN RENUMBERED TO 910 THROUGH 999

SECTION 180 HAS BEEN MOVED TO 931

831. -- ~~999~~. (RESERVED).

910. INFORMAL HEARINGS -- SCOPE AND AUTHORITY.

Sections 910 through 980 shall apply to all informal hearings before the Board. These rules are adopted pursuant to Sections 38-1208 and 67-5201, *et seq.*, Idaho Code, and are intended to facilitate the Board in executing its duties and responsibilities under Title 38, Chapter 12, Idaho Code. These rules shall be construed to effectuate the intent of the

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legislature in adopting the Idaho Scaling Law in a reasonable, fair and expeditious manner. ()

911. -- 919. (RESERVED).

920. COMPLAINTS.

01. Submittal Of Complaint. The complaint shall be submitted in writing in the name of the primary complainant. ()

02. Contents Of Complaint. The complaint shall state: ()

a. The name and address of the person or entity actually aggrieved: ()

b. A short and plain statement of the nature of the complaint, including the location and date of the alleged violation: ()

c. The complainant's notarized signature: ()

d. The complainant shall submit, with the complaint, written or documentary evidence in support of the alleged violation; and ()

e. *In the case of a gross scale complaint, which alleges violations of Section 38-1220(b), Idaho Code, the complainant must also provide a readable copy of the contract, payment slips, and scale tickets for each transaction involved in the alleged complaint.* ()

921. -- 929. (RESERVED).

930. RESPONSE TO COMPLAINT.

01. Response. The respondent shall submit to the Board a written response to the allegations of the complaint, with supporting evidence, within thirty (30) days after receiving a copy of the same from the Board. The Board shall presume that the respondent received such complaint and evidence within three (3) days after mailing by the Board, unless the respondent submits evidence to the contrary to the Board. ()

02. Consideration Of Complaint. The Board shall consider a complaint in its next meeting following the timely response of the respondent or the respondent's failure to respond within the time limit of Subsection 930.01. ()

931. ACCESS TO RECORDS.

The Board shall provide to the respondent or his counsel a copy of the complaint and any supporting evidence to which the respondent does not have access, at the earliest date after the Board has received the same. The Board shall provide the complainant or his counsel a copy of any answer or response and supporting evidence thereof to which the complainant does not have access, at the earliest date after the Board has received the same. ()

932. -- 939. (RESERVED).

940. CONDUCT OF INFORMAL HEARINGS.

01. Hearing Procedure. The chairman of the Board shall minimize, where possible, the use or application of formal court rules of procedure and evidence in the spirit of an informal hearing consistent with the intent of these rules, fairness to the parties, and the interests of justice. ()

02. Statements. The complainant and the respondent may make a brief statement concerning the allegation(s) and may introduce new evidence in support of or in opposition to the allegation(s). Statements shall be concise, specific, relevant to the allegation(s), and limited to ten (10) minutes per party, unless the specific allegation(s) as determined by the chairman clearly requires greater time to address the same. ()

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03. Questions Directed To The Board. All questions at the hearing shall be directed to the Board. The Board shall consider written or oral questions from the complainant or respondent at the hearing or take such questions under advisement. ()

04. Questions Asked By The Board. Only the Board may ask questions of the complainant or respondent and may call witnesses. ()

05. Representation By Counsel. The complainant and the respondent may be represented by counsel. ()

941. -- 949. (RESERVED).

950. TIME FOR BOARD DETERMINATION.

After submission of the complaint and supporting documentation for evidence in accord with Section 930, and after an informal hearing on a complaint wherein the parties have had opportunity to respond to these allegations and to present testimony, documentation, or other evidence thereon in accord with Section 940, the Board may thereafter make its determination or take the matter under advisement and reach its determination within thirty (30) days. ()

951. -- 959. (RESERVED).

960. FINAL DETERMINATION.

The Board's determination shall be final, subject to appeal pursuant to Title 67, Chapter 52, Idaho Code. ()

961. -- 969. (RESERVED).

970. BOARD ACTION UPON DETERMINATION OF PROBABLE VIOLATION.

In the event that the Board determines that the complaint and supporting evidence indicate a probable violation of the Idaho Scaling Law, the Board shall, within thirty (30) days after that determination, transmit the complaint and supporting documentation to the prosecutor of the county where the violation occurred. ()

971. -- 999. (RESERVED).

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 20 - DEPARTMENT OF LANDS

20.06.02 - GENERAL RULES, LICENSING, AND CHECK SCALES OF THE IDAHO BOARD OF SCALING PRACTICES

DOCKET NO. 20-0602-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 38-1208, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Eliminate reference to chapter being repealed; update and correct Idaho Code statute citations; incorporate rules relating to informal hearings from the chapter being repealed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fees or charges are involved.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule changes (incorporation of existing rules from a chapter being repealed and statute citation corrections).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ernest H. Bauer at (208) 769-1445.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 18th day of July, 2003.

Ernest H. Bauer
Executive Director
Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, Idaho 83815-8918
Phone: (208) 769-1445
Fax: (208) 769-1485

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0602-0301

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003. ADMINISTRATIVE APPEALS.

Appeals of check scaling reports to the Board are governed by the provisions of Sections 38-1222 and 67-5201, et seq, Idaho Code, ~~and IDAPA 20.06.01, "Rules of Practice and Procedure for Contested Cases and Rulemaking Before the Idaho Board of Scaling Practices".~~ (4-15-98)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

- 01.** Board. The duly authorized and appointed members of the Board of Scaling Practices. ()
- 02.** Check Scaling. The comparison of scaling practices between a Board-appointed check scaler and any other scaler. (4-15-98)
- 023.** Combination Log. Any multiple-segment log involving more than one (1) product classification. (4-15-98)
- 04.** Complaint. A statement alleging a violation of the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code. ()
- 05.** Complainant. A person or entity who submits a complaint to the Board. ()
- 036.** Decimal "C". A log rule that uses tens of board feet as its basic unit of measure; one (1) decimal "C" equals ten (10) board feet. The standard Scribner Coconino decimal "C" volumes as listed in the Appendix, Table I, IDAPA 20.06.03, "Measurement Rules for Forest Products of the State Board of Scaling Practices". (4-15-98)
- 047.** Gross Scale. The log rule volume of timber products before deductions are made for defects. (4-15-98)
- 058.** Gross Weight. The actual weight of the products hauled. (4-15-98)
- 09.** Informal Hearing. Any hearing directly before the Board of Scaling Practices, as opposed to a formal hearing before a hearing officer designated by the Board. ()
- 0610.** Log Brands. A unique symbol or mark placed on or in forest products for the purpose of identifying ownership. (4-15-98)
- 0711.** Net Scale. The remaining log rule volume of timber products after deductions are made for defects, based on the product classification that is used. (4-15-98)
- 08.12** Official Seal. An official seal of the Idaho Board of Scaling Practices is hereby adopted. The seal shall be round, of a diameter of at least one and one-half inches (1-1/2"), and be so constructed that it may readily be imprinted on paper. The seal appears in the appendix hereto. (4-15-98)
- 0913.** Prize Logs. As described in Section 38-809, Idaho Code. (4-15-98)
- 104.** Product Classification. Classification as sawlog, pulp log, or cedar products log for purposes of check scaling. (4-15-98)
- 145.** Purchaser. The principal individual, partnership, or corporation entitled to ownership at the first determination of scale for forest products harvested in Idaho. Purchaser shall also include the owner of the timber as provided in Section 38-1209(b), Idaho Code. (4-15-98)

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- 126.** **Requested Check Scale.** A check scale performed pursuant to Section 820 of these rules. (4-15-98)
- 137.** **Relicense Check Scale.** A check scale requested and scheduled in advance, by a licensed scaler, for purposes of license renewal. (4-15-98)
- 148.** **Routine Check Scale.** A check scale that is not a relicense, temporary permit, or requested check scale. (4-15-98)
- 19.** **Respondent.** The person or entity accused of violating the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code. ()
- 1520.** **Temporary Permit Check Scale.** A check scale performed pursuant to provisions of Section 240 of these rules. (4-15-98)
- 1621.** **Written Scaling Specifications.** A written document provided to the scaler that states the information necessary to scale logs in accordance with a contractual scaling agreement. (4-15-98)

(BREAK IN CONTINUITY OF SECTIONS)

050. ASSESSMENT.

In accordance with provisions of Section 38-1209, Idaho Code, the Board is authorized and directed to levy an assessment. (4-15-98)

- 01. Purchaser.** The purchaser, as defined in Subsection 010.145, shall pay the assessment levied by the Board. (4-15-98)()
- 02. Assessment.** The assessment shall be transmitted to the Board on or before the twentieth (20th) day of each month for all timber harvested during the previous month. Forms provided by the Board shall be completed and submitted with the assessment. (4-15-98)
- 03. Weight.** On forest products harvested and purchased solely on the basis of weight, no levy of assessment is applicable. (4-15-98)

(BREAK IN CONTINUITY OF SECTIONS)

100. PAYMENT FOR LOGGING OR HAULING.

Provisions of Section 38-1202(eb), Idaho Code, govern payment for logging or hauling. (4-15-98)()

- 01. Gross Scale Determination.** Gross scale shall be determined in accordance with IDAPA 20.06.03, "Measurement Rules for Forest Products of the Idaho Board of Scaling Practices". (4-15-98)
- 02. Compliance With Gross Scale Determination.** Notwithstanding the mensuration criteria contained in IDAPA 20.06.03, "Measurement Rules for Forest Products of the Idaho Board of Scaling Practices," compliance shall be determined to have been met when check scale results on gross scale comparisons are within allowable standards of variation as contained in these rules. (4-15-98)

101. -- 1909. (RESERVED).

110. INFORMAL HEARINGS -- SCOPE AND AUTHORITY.

Sections 110 through 180 shall apply to all informal hearings before the Board of Scaling Practices. These rules are adopted pursuant to Sections 38-1208 and 67-5201, Idaho Code et sequitur, and are intended to facilitate the Board in

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executing its duties and responsibilities under Title 38, Chapter 12, Idaho Code. These rules shall be construed to effectuate the intent of the legislature in adopting the Idaho Scaling Law in a reasonable, fair and expeditious manner. ()

111. -- 119. (RESERVED).

120. COMPLAINTS.

01. Submittal Of Complaint. The complaint shall be submitted in writing in the name of the primary complainant. ()

02. Contents Of Complaint. The complaint shall state: ()

a. The name and address of the person or entity actually aggrieved. ()

b. A short and plain statement of the nature of the complaint, including the location and date of the alleged violation. ()

c. The complainant's notarized signature. ()

d. The complainant shall submit, with the complaint, written or documentary evidence in support of the alleged violation. ()

03. Payment Of Gross Scale. Complaints which allege violations of Section 38-1220(b), Idaho Code, requiring payment by gross scale shall include the following: ()

a. A notarized complaint or statement in accord with Subsection 120.02.d. ()

b. A readable copy of the contract, payment slips, and scale tickets for each transaction involved in the alleged complaint. ()

121. -- 129. (RESERVED).

130. RESPONSE TO COMPLAINT.

01. Response. The respondent shall submit to the Board a written response to the allegations of the complaint, with supporting evidence, within thirty (30) days after receiving a copy of the same from the Board. The Board shall presume that the respondent received such complaint and evidence within three (3) days after mailing by the Board, unless the respondent submits evidence to the contrary to the Board. ()

02. Consideration Of Complaint. The Board shall consider a complaint in its next meeting following the timely response of the respondent or the respondent's failure to respond within the time limit of Subsection 130.01. ()

131. -- 139. (RESERVED).

140. CONDUCT OF INFORMAL HEARINGS.

01. Hearing Procedure. The chairman of the Board shall minimize, where possible, the use or application of formal court rules of procedure and evidence in the spirit of an informal hearing consistent with the intent of these rules, fairness to the parties, and the interests of justice. The chairman shall conduct the informal hearing in an expeditious manner and shall control testimony and questioning to avoid unnecessary debate between the complainant and the respondent, including, without limitation, such as may result from cross examination. ()

02. Statements. The complainant and the respondent may make a brief statement concerning the allegation(s) and may introduce new evidence in support of or in opposition to the allegation(s). Statements shall be concise, specific, relevant to the allegation(s), and limited to ten (10) minutes per party, unless the specific

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allegation(s) as determined by the chairman clearly requires greater time to address the same. ()

03. Questions Directed To The Board. All questions at the hearing shall be directed to the Board. The Board shall consider written or oral questions from the complainant or respondent at the hearing or take such questions under advisement. ()

04. Questions Asked By The Board. Only the Board may ask questions of the complainant or respondent and may call witnesses. ()

05. Representation By Counsel. The complainant and the respondent may be represented by counsel. ()

141. -- 149. (RESERVED).

150. TIME FOR BOARD DETERMINATION.

After submission of the complaint and supporting documentation for evidence in accord with Section 130, and after an informal hearing on a complaint wherein the parties have had opportunity to respond to these allegations and to present testimony, documentation, or other evidence thereon in accord with Section 140, the Board may thereafter make its determination or take the matter under advisement and reach its determination within thirty (30) days. ()

151. -- 159. (RESERVED).

160. FINAL DETERMINATION.

01. Board Decision Final. The Board's determination shall be final, subject to appeal pursuant to Title 67, Chapter 52, Idaho Code. ()

02. Elements Of Board Decision. The Board's determination may include the following: ()

a. That the complaint failed to state a violation of the scaling law. ()

b. That the complaint and supporting evidence failed to adequately show a probable violation of the scaling law. ()

c. That the complaint and supporting documentation indicate a probable violation of the Idaho Scaling Law. ()

161. -- 169. (RESERVED).

170. BOARD ACTION UPON DETERMINATION OF PROBABLE VIOLATION.

In the event that the Board determines that the complaint and supporting evidence indicate a probable violation of the Idaho Scaling Law, the Board shall, within thirty (30) days, transmit the complaint and supporting documentation to the prosecutor of the county where the violation occurred. ()

171. -- 179. (RESERVED).

180. ACCESS TO RECORDS.

The Board shall provide to the respondent or his counsel a copy of the complaint and any supporting evidence to which the respondent does not have access, at the earliest date after the Board has received the same. The Board shall provide the complainant or his counsel a copy of any answer or response and supporting evidence thereof to which the complainant does not have access, at the earliest date after the Board has received the same. ()

181. -- 199. (RESERVED).

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IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES GOVERNING OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0301

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is September 25, 2003. These rules have been adopted by the agency and are now pending review by the 2004 Idaho State Legislature for final approval. A pending rule becomes final and effective upon adjournment the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 36-2107(b) and (d), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rules are being adopted as proposed except for a changes being made to the pending rule that differs from the proposed text in Rules 55 and 59, based on Bureau of Land Management and outfitting industry comments and three Board hearings. Rule 55 is being changed to clarify the exemption to the rule. Rule 59 clarifies that there will be no outfitter fishing on Section SA6 below Vinegar Creek from September 15 through March 31, except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Director. The number of power boat outfitter licenses on Section SA7B is reduced from ten (10) to six (6) and the number of float boat outfitter licenses on Section SA7B is reduced from twenty six (26) to twelve (12). SA7B licensed power boat outfitters may operate from Vinegar Creek to the Spring Bar Boat Ramp and SA7B licensed float boat outfitters may operate from Vinegar Creek to the Island Bar Board Ramp from September 15 to March 31 only. Each Section SA7B licensed power boat outfitter may use at any one time a maximum of two (2) boats for fishing, and one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director. Each Section SA7B licensed float boat outfitter may use at any one time a maximum of three (3) boats for fishing, and two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the July 1, 2003, Idaho Administrative Bulletin, Volume 03-7, pages 57 through 67.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule, contact: Jake Howard, Executive Director, (208) 327-7380 - FAX 327-7382.

DATED this 14th day of October, 2003.

Jake Howard, Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380
FAX (208) 327-7382

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OUTFITTERS AND GUIDES LICENSING BOARD
Outfitters and Guides Licensing Board

Docket No. 25-0101-0301
Pending Rule and Amendment to Temporary Rule

IDAPA 25, TITLE 01, CHAPTER 01

RULES GOVERNING OUTFITTERS AND GUIDES LICENSING BOARD

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 1, 2003, pages 57 through 67.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 25-0101-0301

055. BOATING CLIENT/GUIDE RATIO.

All float boats, occupied by three (3) or more clients, shall be under the control of a licensed guide; except a boat guide trainee may operate a boat under the direct supervision of a licensed boatman, or may train as indicated in Section 040. Kayaks and canoes and clients rowing ~~their own~~ rafts that they own are exempt from this rule.

~~(7-1-03)T~~(7-1-03)T

059. RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.

01. Licensable Waters -- Table. The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
(BL1) Blackfoot River - Morgan Bridge to Trail Creek Bridge	none	2
(BO1) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. (Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman.) No overnight camping or walk-and-wade fishing allowed.	none	2

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OUTFITTERS AND GUIDES LICENSING BOARD
Outfitters and Guides Licensing Board

Docket No. 25-0101-0301
Pending Rule and Amendment to Temporary Rule

River/Section	Maximum No. Power	Maximum No. Float
(BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. (Each outfitter may use at any time a maximum of four (4) boats for boating activities.) The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	2
(CF1) Clark Fork River - Montana stateline to Lake Pend Oreille (boating closing date September 30)	4 outfitters for either power or float or combination thereof	
(CL1) Clearwater River - Lowell to Kooskia. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	5
(CL2) Clearwater River - Kooskia to Orofino. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	6	10
(CL3) Clearwater River - Orofino to Lewiston. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan).	10	10
* (NFCL) North Fork Clearwater River - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4
(CD1) Coeur d'Alene River - Devil's Elbow to South Fork confluence (boating closing date June 30)	none	5
* (JB1) Jarbidge/Bruneau Rivers	none	4
(KO1) Kootenai River - Montana stateline to Canada boundary	5	5

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OUTFITTERS AND GUIDES LICENSING BOARD
Outfitters and Guides Licensing Board

Docket No. 25-0101-0301
Pending Rule and Amendment to Temporary Rule

River/Section	Maximum No. Power	Maximum No. Float
(LCL1) Little North Fork Clearwater River - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. (Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.)	none	2
* (LO1) Lochsa River	none	5
(MO1) Moyie River - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
* (OW1) Owyhee River - Nevada stateline to Oregon stateline or South Fork to confluence with Owyhee River (and continuing on to a take-out point).	none	6
(PN1) Payette River, North Fork - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN1A) Payette River, North Fork - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN2) Payette River, North Fork - Cabarton to Smiths Ferry Bridge	none	5
(PS1) Payette River, South Fork - Grandjean to Deadwood River	none	5
* (PS2) Payette River, South Fork - Deadwood River to Banks	none	5
(PA1) Payette River - Banks to Black Canyon Dam	none	5
(PO1) Pend Oreille River	5	5
(PR1) Priest River - Dickensheet Campground to Priest River City	none	5
*##(MF1) Salmon River, Middle Fork - Boundary Creek to Indian Creek	none	27

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River/Section	Maximum No. Power	Maximum No. Float
*** (MF2) Salmon River, Middle Fork - Indian Creek to Cache Bar on the Salmon River	none	27
(SA1) Salmon River - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6
(SA2) Salmon River - Torrey's Bar to first Highway 93 bridge above Challis. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan).	none	5
(SA3) Salmon River - First Highway 93 bridge above Challis to Kilpatrick River access. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	6
(SA4A) Salmon River - Kilpatrick River access to North Fork - License period from May 1 to September 30. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	5	11
(SA4B) Salmon River - Kilpatrick River access to North Fork - License period from October 1 to April 30. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.	2	8
(SA5) Salmon River - North Fork to Corn Creek	3	9
*** (SA6) Salmon River - Corn Creek to Spring Bar Boat Ramp <u>with no outfitter fishing below Vinegar Creek from September 15 through March 31 except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.</u>	14	31

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* (SA7A) Salmon River - Vinegar Creek to Hammer Creek - License period from March 15 to October 15. No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.	10	26
* (SA7B) Salmon River - Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp-. <u>open from September 15 to March 31 only. Each float boat outfitter may use at any one time a maximum of three (3) boats for fishing, or two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director; and</u> Each power boat outfitter may use at any one time a maximum of one two (42) boats and each float boat outfitter may use at any one time a maximum of three (3) boats from September 15 to March 31 for fishing, or one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	40 6	26 12
* (SA7C) Salmon River - Riggins City Park Boat Ramp to Hammer Creek. Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period from September 15 to March 31.	none	3
*** (SA8) Salmon River - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35
* (SE1) Selway River - Paradise Campground to Selway Falls	none	4
(SE2) Selway River - Selway Falls to the mouth of the Selway River at Lowell. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	none	5
(SH1) Snake River, Henry's Fork - Henry's Lake Outlet to Hatchery Ford. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	7

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River/Section	Maximum No. Power	Maximum No. Float
(SH2) Snake River, Henry's Fork - Mesa Falls to St. Anthony. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Warm River, Warm River to Ashton Dam, and Ashton Dam to St. Anthony), and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	8
(SH3) Snake River, Henry's Fork - St. Anthony to confluence with South Fork of Snake River. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	4
(SS1) Snake River - South Fork - Palisades Dam to confluence with Henry's Fork. No more than four (4) boats per section/per day may be used by an outfitter at any one time on any of the following river reaches: (a) Palisades Dam to Swan Valley Bridge; (b) Swan Valley Bridge to Black Canyon (Exception: Not more than eight (8) boats will be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m.); (c) Black Canyon to Poplar (Kelly Canyon); and (d) Poplar to the confluence with Henry's Fork. Restrictions: No outfitter may have more than twelve (12) boats on the SS1 in any one (1) day. Further, the lower boundary of Section (a) (Palisades Dam to Swan Valley Bridge) shall overlay Section (b) to the Conant takeout (Swan Valley Bridge to Black Canyon), and Section (b) shall overlay Section (c) to the Cottonwood access. Supply boats which do not carry clients are exempt from these restrictions.	5	6
(SN1) Snake River - Henry's Fork confluence downstream to Gem State Power Plant	3	3
(SN2) Snake River - Gem State Power Plant downstream to headwaters of American Falls Reservoir	3	3
(SN3) Snake River - American Falls Dam to Massacre Rocks State Park	3	3
(SN4) Snake River - Massacre Rocks State Park to Milner Dam	3	3
* (SN5) Snake River - Milner Dam to Star Falls	none	3

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River/Section	Maximum No. Power	Maximum No. Float
* (SN6) Snake River - Star Falls to Twin Falls	none	5
(SN7) Snake River - Twin Falls to Lower Salmon Falls Dam	3	3
(SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam	3	5
(SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
(SN10) Snake River - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
(SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
* (SN12) Snake River - Hells Canyon Dam to Pittsburg Landing	18	15
* (SN13) Snake River - Hells Canyon Dam to Pittsburg Landing (Two (2) one-day float trips only)	none	2
(SN14) Snake River - Pittsburg Landing to Heller Bar or Lewiston	19	15
(SN15) Snake River - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters)	
(SJ1) St. Joe River - Spruce Tree Campground to St Joe City Bridge. St. Joe City Bridge to Lake Coeur d'Alene	none 2	2 none
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge (motors not to exceed 10 hp)	5 outfitters for either power or float or combination thereof	

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River/Section	Maximum No. Power	Maximum No. Float
(TE2) Teton River - Cache Bridge to Harrop Bridge (motors not to exceed 10 hp)	6 outfitters for either power or float or combination thereof	
(TE3) Teton River - Harrop Bridge to confluence with Snake River (motors not to exceed 10 hp)	none	5

* Classified rivers

Floatboat and powerboat outfitters on these sections shall be considered within their area of operations when hiking from the river or fishing in tributaries away from the river, but shall not include overnight activities. Conflicts with land-based outfitters shall be handled on a case-by-case basis.

~~(7-1-03)~~ **(9-25-03)T**

02. Other -- Table. The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho shall be open to fishing by outfitters with the following limitations:

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	1
Dworshak Reservoir	7	2
Hayden Lake	1	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2
Lake Pend Oreille	11	1
Priest Lake	5	1
American Falls Reservoir	3	2
C.J. Strike Reservoir	4	2
Brownlee Reservoir	5	2
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

(4-1-92)

03. Other Lakes And Reservoirs. All other Idaho lakes and reservoirs shall be limited to two (2) outfitters with a maximum of two (2) boats (float or power) per outfitter.

(4-1-92)

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IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-2107(b) and (d), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held pursuant to Section 67-5222, Idaho Code, if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must have been made not later than five (5) days prior to the hearing to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: Changes made to various sections of the rule are as follows:

Rule 015: Deletes out-of-date provisions for payment of fees as credit cards are now also accepted; sets an annual date by which outfitter and designated agent license applications must be completed and received by the Board; establishes a date for expiration of all licenses and clarifies that guide licenses may be submitted at any time during the year; provides for issuance of outfitter and designated agent licenses to be issued for multiple years beginning in license year 2004 and that all new applicants must be licensed for at least two (2) years before they may apply for a three year license; permits hot pursuit of bear and cougar with hounds and for hot pursuit agreements with outfitters in adjoining areas; and clarifies that clients in drop camp situation may not be provided guided services when outside the outfitters area.

Rule 054: Clarifies that identification requirements do not apply to single person boats; that on Sections CL2 and CL3 of the Clearwater River an outfitter shall have an eight (8) inch sticker affixed to each side of any boat used for anadromous fishing identifying the boat as operated by a licensed outfitter.

Rule 055: Exempts kayaks and canoes and clients rowing their own rafts from this rule.

Rule 059: Clarifies that on Section SA4A and SA4B of the Salmon River, an outfitter may put in at the Kilpatrick River access and comply with the BLM management of the Salmon River by extending the dates of operation on Section SA7A from March 15 to October 15, on Section SA7B to clarify that power boats operated from Vinegar Creek to Spring Bar and that float boats operate from Vinegar Creek to the Island Bar Boat Ramp and that a maximum of one (1) power boat and three (3) float boats may be used from September 15 to March 31; that on Section SA7C outfitters may operate from Riggins City Park boat ramp to Hammer Creek and that three (3) outfitters may operate from September 15 to March 31; and that floatboat and powerboat operators on certain identified sections are considered within their area of operations when hiking or fishing in tributaries away from the river but may not include overnight activities.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule is needed to establish an annual date for expiration of all licenses; to confer the benefit to guides of being able to apply for their licenses at any time of the year; to confer on outfitters and designated agents the benefit of being able to be licensed for multiple years; to confer the benefit on outfitters and guides of hot pursuit of bear and cougar with hounds out of the outfitter's operating area; for protection of the public health, safety or welfare by providing for stickers to be affixed to licensed outfitters boats on the Clearwater River permitting them to be easily recognized, and providing a benefit to outfitters by removing the requirement that there be a guide in client rafts with no more than two (2) people; to comply with the BLM federal program management of the Salmon River and to confer a benefit on power boat and float boat outfitters to operate from March 15 to October 15 on Section SA7A of the Salmon River, to permit float boat outfitters to operate from Vinegar Creek to Island Bar Boat Ramp on Section SA7B and from the Riggins City Park Boat Ramp to Hammer Creek from September 15 to March 31 on Section SA7C of the Salmon River

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FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted prior to submission, however the public will have the opportunity to comment on the rules as provided hereunder and may request a hearing as provided by Section 67-5222, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact: Jake Howard, Executive Director, (208) 327-7380 - FAX 327-7382.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 20th day of May, 2003.

Jake Howard, Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172, Boise, Idaho 83706
(208) 327-7380 - FAX (208) 327-73820

THE FOLLOWING IS THE TEXT OF DOCKET NO. 25-0101-0301

015. ANNUAL DATE, MULTIPLE YEARS, FEES, AND PAYMENT.

Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, or outfitter's company check. The fee need not be submitted by a new applicant in order for the application to be considered complete but must accompany any renewal application. (4-1-92)

01. Annual Dates. (7-1-03)T

a. All outfitter and designated license applications must be completed and received by the Board by January 31 of each year. (7-1-03)T

b. All outfitter applications and designated agent applications received by the Board after January 31 that are not complete will be subject to special processing fees. (7-1-03)T

c. The last day of the license year for all licenses is March 31 of each year. (7-1-03)T

d. Guide license applications may be submitted at any time during the year. (7-1-03)T

042. Outfitter And Designated Agent Late Fee. When a completed renewal application is filed with the Board after the last day of the license year, the following penalty shall apply: (3-30-01)(7-1-03)T

a. A completed application received by the Board the last day of the license year - no late fee shall apply. (3-10-03)

b. A completed application received by the Board after the last day of the license year - a fifty dollar (\$50) late fee shall be paid before the license is issued. (3-10-03)

023. License Lapsed And Relinquished. A completed outfitter application received by the Board after

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ninety (90) days after the last day of the license year will not be accepted for licensure. The license will have lapsed and therefore is void and vacated. If a completed application is not received by the Board by ninety (90) days after the last day of the license year, the license is relinquished. (3-10-03)

034. Refund Of Unused One Time Application Fees. All unused portions of one (1) time new outfitter, new designated agent, or new guide application fees shall be returned to the applicant. (3-19-99)

05. Multiple Year Licenses. (7-1-03)T

a. Beginning in license year 2004, outfitter and designated agent licenses may be issued for a one (1) year or three (3) year period. All new applicants must be licensed for two (2) years before the applicant may apply for a three (3) year license. (7-1-03)T

b. License fees shall be prorated based on the number of years for which the applicant is licensed. The multiyear license fee may be transferred to the bona fide purchaser of an outfitter business. Bona fide purchasers of an outfitter business will be credited for annual license fees for prorated years remaining with a business at the time of the purchase. (7-1-03)T

c. The multiple year fee must be paid at the time of renewal and prior to the beginning of the license period. This does not relieve a licensed outfitter from submitting annual reports and use reports, and annual bonding and insurance requirements. (7-1-03)T

d. There shall be no reimbursement of fees should the license become revoked or relinquished. (7-1-03)T

e. Outfitters must submit renewal applications no later than January 31 prior to the subsequent license period. (7-1-03)T

06. Payment. Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, outfitter's company check or use of outfitter and designated agent credit cards. (7-1-03)T

(BREAK IN CONTINUITY OF SECTIONS)

051. PLACEMENT OF HUNTING CAMPS AND LEAVING OUTFITTER'S OPERATING AREA.

01. Hot Pursuit Of Bear And Cougar With Hounds And Hot Pursuit Agreements. With prior Board approval, an outfitter may enter into an adjacent area with a client for hot pursuit of bear and cougar hunting when hunting with hounds. The pursuit may not be started outside of the outfitter's licensed area. Outfitters may negotiate agreements with adjoining outfitters for hot pursuit of bear and cougar when hunting with hounds. Such agreements constitute a minor amendment. A copy of the amended agreement must be filed with the Board annually. An outfitter wishing to conduct a hot pursuit hunt outside his licensed area with a client must: (7-1-03)T

a. Obtain written permission from all outfitters whose licensed area(s) will be directly involved in the hunt; (7-1-03)T

b. Obtain written permission from all applicable landowners or land managers; (7-1-03)T

c. Obtain approval from the Outfitters and Guides Licensing Board to conduct the hunt by satisfying the following criteria: (7-1-03)T

i. Must be licensed for bear and cougar hunting; and (7-1-03)T

ii. Submit an incidental amendment fee. (7-1-03)T

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d. With prior Board approval, on a case by case basis and under special circumstances, the Board may waive the requirement for approval from the adjacent outfitter. (7-1-03)T

02. Camps. A hunting outfitter shall not place a camp, nor cause one to be placed, in an area for which he is not licensed, except as identified in his approved operating plan. Whenever possible, camps used for big game hunting shall be placed well within the operating area and not ~~on~~ near the boundary line. ~~(9-1-90)~~(7-1-03)T

03. Guide Services To Clients Outside Outfitter's Operating Area. Clients may not be provided guided services when outside the outfitters area, including any drop camp situation except as provided in Subsection 051.01. Outfitters providing unguided hunts may be subject to Board action for clients hunting outside their operating area. (7-1-03)T

(BREAK IN CONTINUITY OF SECTIONS)

054. BOAT EQUIPMENT REQUIREMENTS.

Each float or power boat must have: (4-1-92)

01. Life Jacket. A life jacket for each passenger and boatman. The life jackets must be of a type approved by the U.S. Coast Guard for use in boats carrying passengers for hire and must be maintained in good and serviceable condition. (4-1-92)

02. Fire Extinguisher. A fire extinguisher. (Does not apply to float boats without motors for steering). (4-1-92)

03. Identification. (7-1-03)T

a. Identification consisting of words, names, or letters indicating the current licensed outfitter. The identification shall be recorded with the Board on the outfitter application and shall be placed above the water line on each side of the bow or stern of the boat utilized by that outfitter in letters not less than three (3) inches in height, and be of a contrasting color. (Does not apply to single ~~passenger~~ person boats or two (2) person inflatable boats). ~~(3-10-03)~~(7-1-03)T

b. On Sections CL2 and CL3 of the Clearwater River, the outfitter shall have a sticker affixed to the surface of any boat used for anadromous fishing. The sticker shall not be less than eight (8) inches in height and shall be placed immediately adjacent to the identification words, names or letters on each side of the boat towards the bow, identifying the boat as operated by a licensed outfitter. The stickers shall be provided and sold annually by the Board or a vendor designated by the Board. This requirement shall not apply to single person boats or inflatable boats. The sticker requirement is null and void after July 1, 2006. (7-1-03)T

055. BOATING CLIENT/GUIDE RATIO.

All float boats, occupied by three (3) or more clients, shall be under the control of a licensed guide; except a boat guide trainee may operate a boat under the direct supervision of a licensed boatman, or may train as indicated in Section 040. Kayaks and canoes and clients rowing their own rafts ~~with no more than two (2) people~~ are exempt from this rule. ~~(3-15-02)~~(7-1-03)T

(BREAK IN CONTINUITY OF SECTIONS)

059. RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.

01. Licensable Waters -- Table. The following rivers and streams or sections that lie totally or

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partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
(BL1) Blackfoot River - Morgan Bridge to Trail Creek Bridge	none	2
(BO1) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. (Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman.) No overnight camping or walk-and-wade fishing allowed.	none	2
(BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. (Each outfitter may use at any time a maximum of four (4) boats for boating activities.) The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	2
(CF1) Clark Fork River - Montana stateline to Lake Pend Oreille (boating closing date September 30)	4 outfitters for either power or float or combination thereof	
(CL1) Clearwater River - Lowell to Kooskia (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	5
(CL2) Clearwater River - Kooskia to Orofino (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	6	10
(CL3) Clearwater River - Orofino to Lewiston (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan).	10	10
* (NFCL) North Fork Clearwater River - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4

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River/Section	Maximum No. Power	Maximum No. Float
(CD1) Coeur d'Alene River - Devil's Elbow to South Fork confluence (boating closing date June 30)	none	5
* (JB1) Jarbidge/Bruneau Rivers	none	4
(KO1) Kootenai River - Montana stateline to Canada boundary	5	5
(LCL1) Little North Fork Clearwater River - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. (Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.)	none	2
* (LO1) Lochsa River	none	5
(MO1) Moyie River - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
* (OW1) Owyhee River - Nevada stateline to Oregon stateline or South Fork to confluence with Owyhee River (and continuing on to a take-out point).	none	6
(PN1) Payette River, North Fork - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN1A) Payette River, North Fork - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN2) Payette River, North Fork - Cabarton to Smiths Ferry Bridge	none	5
(PS1) Payette River, South Fork - Grandjean to Deadwood River	none	5
* (PS2) Payette River, South Fork - Deadwood River to Banks	none	5
(PA1) Payette River - Banks to Black Canyon Dam	none	5

2004 - Resource and Environment Senate Pending Rule (Yellow)

OUTFITTERS AND GUIDES LICENSING BOARD
Outfitters and Guides Licensing Board

Docket No. 25-0101-0301
Temporary and Proposed Rulemaking

River/Section	Maximum No. Power	Maximum No. Float
(PO1) Pend Oreille River	5	5
(PR1) Priest River - Dickensheet Campground to Priest River City	none	5
*##(MF1) Salmon River, Middle Fork - Boundary Creek to Indian Creek	none	27
*## (MF2) Salmon River, Middle Fork - Indian Creek to Cache Bar on the Salmon River	none	27
(SA1) Salmon River - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6
(SA2) Salmon River - Torrey's Bar to first Highway 93 bridge above Challis (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan).	none	5
(SA3) Salmon River - First Highway 93 bridge above Challis to Iron Creek <u>Kilpatrick River access</u> . {Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.}	none	6
(SA4A) Salmon River - Iron Creek <u>Kilpatrick River access</u> to North Fork - License period from May 1 to September 30. {Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat lim- itations to accommodate canoeing or kayaking activities that are part of an out- fitter's operating plan.}	5	11
(SA4B) Salmon River - Iron Creek <u>Kilpatrick River access</u> to North Fork - License period from October 1 to April 30. {Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.}	2	8
(SA5) Salmon River - North Fork to Corn Creek	3	9

2004 - Resource and Environment Senate Pending Rule (Yellow)

OUTFITTERS AND GUIDES LICENSING BOARD Outfitters and Guides Licensing Board

Docket No. 25-0101-0301
Temporary and Proposed Rulemaking

River/Section	Maximum No. Power	Maximum No. Float
* ## (SA6) Salmon River - Corn Creek to Spring Bar Boat Ramp	14	31
* (SA7A) Salmon River - Vinegar Creek to Hammer Creek - License period from April March 15 to September 30 October 15. (No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.)	10	26
* (SA7B) Salmon River - <u>Power boats from</u> Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp. <u>Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats from September 15 to March 31.</u>	10	26
* (SA7C) Salmon River - Spring Bar Riggins City Park Boat Ramp to Hammer Creek —Closed to all commercial boating from October 1 to March 31 (Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period October from September 15 to March 31).	none	3
* ## (SA8) Salmon River - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35
* (SE1) Selway River - Paradise Campground to Selway Falls	none	4
(SE2) Selway River - Selway Falls to the mouth of the Selway River at Lowell. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	none	5
(SH1) Snake River, Henry's Fork - Henry's Lake Outlet to Hatchery Ford (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	7

2004 - Resource and Environment Senate Pending Rule (Yellow)

OUTFITTERS AND GUIDES LICENSING BOARD
Outfitters and Guides Licensing Board

Docket No. 25-0101-0301
Temporary and Proposed Rulemaking

River/Section	Maximum No. Power	Maximum No. Float
(SH2) Snake River, Henry's Fork - Mesa Falls to St. Anthony (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Warm River, Warm River to Ashton Dam, and Ashton Dam to St. Anthony), and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	8
(SH3) Snake River, Henry's Fork - St. Anthony to confluence with South Fork of Snake River (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	4
(SS1) Snake River - South Fork - Palisades Dam to confluence with Henry's Fork. No more than four (4) boats per section/per day may be used by an outfitter at any one time on any of the following river reaches: (a) Palisades Dam to Swan Valley Bridge; (b) Swan Valley Bridge to Black Canyon (Exception: Not more than eight (8) boats will be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m.); (c) Black Canyon to Poplar (Kelly Canyon); and (d) Poplar to the confluence with Henry's Fork. Restrictions: No outfitter may have more than twelve (12) boats on the SS1 in any one (1) day. Further, the lower boundary of Section (a) (Palisades Dam to Swan Valley Bridge) shall overlay Section (b) to the Conant takeout (Swan Valley Bridge to Black Canyon), and Section (b) shall overlay Section (c) to the Cottonwood access. Supply boats which do not carry clients are exempt from these restrictions.	5	6
(SN1) Snake River - Henry's Fork confluence downstream to Gem State Power Plant	3	3
(SN2) Snake River - Gem State Power Plant downstream to headwaters of American Falls Reservoir	3	3
(SN3) Snake River - American Falls Dam to Massacre Rocks State Park	3	3
(SN4) Snake River - Massacre Rocks State Park to Milner Dam	3	3
* (SN5) Snake River - Milner Dam to Star Falls	none	3

2004 - Resource and Environment Senate Pending Rule (Yellow)

OUTFITTERS AND GUIDES LICENSING BOARD
Outfitters and Guides Licensing Board

Docket No. 25-0101-0301
Temporary and Proposed Rulemaking

River/Section	Maximum No. Power	Maximum No. Float
* (SN6) Snake River - Star Falls to Twin Falls	none	5
(SN7) Snake River - Twin Falls to Lower Salmon Falls Dam	3	3
(SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam	3	5
(SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
(SN10) Snake River - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
(SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
* (SN12) Snake River - Hells Canyon Dam to Pittsburg Landing	18	15
* (SN13) Snake River - Hells Canyon Dam to Pittsburg Landing (Two (2) one-day float trips only)	none	2
(SN14) Snake River - Pittsburg Landing to Heller Bar or Lewiston	19	15
(SN15) Snake River - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters)	
(SJ1) St. Joe River - Spruce Tree Campground to St Joe City Bridge. St. Joe City Bridge to Lake Coeur d'Alene	none 2	2 none
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge (motors not to exceed 10 hp)	5 outfitters for either power or float or combination thereof	

2004 - Resource and Environment Senate Pending Rule (Yellow)

OUTFITTERS AND GUIDES LICENSING BOARD **Outfitters and Guides Licensing Board**

Docket No. 25-0101-0301
Temporary and Proposed Rulemaking

River/Section	Maximum No. Power	Maximum No. Float
(TE2) Teton River - Cache Bridge to Harrop Bridge (motors not to exceed 10 hp)	6 outfitters for either power or float or combination thereof	
(TE3) Teton River - Harrop Bridge to confluence with Snake River (motors not to exceed 10 hp)	none	5

* Classified rivers

Floatboat and powerboat outfitters on these sections shall be considered within their area of operations when hiking from the river or fishing in tributaries away from the river, but shall not include overnight activities. Conflicts with land-based outfitters shall be handled on a case-by-case basis. ~~(3-30-01)~~(7-1-03)T

02. Other -- Table. The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho shall be open to fishing by outfitters with the following limitations:

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	1
Dworshak Reservoir	7	2
Hayden Lake	1	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2
Lake Pend Oreille	11	1
Priest Lake	5	1
American Falls Reservoir	3	2
C.J. Strike Reservoir	4	2
Brownlee Reservoir	5	2
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

(4-1-92)

03. Other Lakes And Reservoirs. All other Idaho lakes and reservoirs shall be limited to two (2) outfitters with a maximum of two (2) boats (float or power) per outfitter. (4-1-92)

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.02.03 - WATER SUPPLY BANK RULES

DOCKET NO. 37-0203-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 42-1762, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Rule 40.05 is to be amended to provide that the Board may, upon good cause being determined by the Board, approve amendments to approved rental pool procedures submitted after April 1 of any year. The rules are additionally amended to add or modify certain nonsubstantive mandatory sections to comply with the requirements of the Office of Administrative Rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, pages 575 through 577.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Hal Anderson, (208) 327-7910.

DATED this 12th day of November, 2003.

Jerry R. Rigby, Chairman
Idaho Water Resource Board
1301 N. Orchard St.
P. O. Box 83720, Boise, Idaho 83720-0098P
Phone: (208) 327-7900 Fax: (208) 327-7866

IDAPA 37, TITLE 02, CHAPTER 03

WATER SUPPLY BANK RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 575 through 577.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.02.03 - WATER SUPPLY BANK RULES

DOCKET NO. 37-0203-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 27, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 42-1762, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 040.05 is to be amended to provide that the Board may, upon good cause being determined by the Board, approve amendments to approved rental pool procedures submitted after April 1 of any year. The rules are additionally amended to add or modify certain nonsubstantive mandatory sections to comply with the requirements of the Office of Administrative Rules.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary/proposed rule would allow the Board to approve changes in the rental rate for the Upper Snake Rental Pool after the April 1st deadline provided in the current rule. Without an increase in rates, water for replacement or mitigation purposes may not be available due to the extended drought conditions. The temporary rule will protect the public health, safety and welfare and will confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Hal Anderson, (208) 327-7910.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 21st day of August, 2003.

Jerry R. Rigby, Chairman
Idaho Water Resource Board
1301 N. Orchard St.
P. O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866

THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0203-0301

000. ~~(RESERVED)~~ LEGAL AUTHORITY (Rule 0).

This chapter is adopted under the legal authority of Section 42-1762, Idaho Code.

(6-27-03)T

2004 - Resource and Environment Senate Pending Rule (Yellow)

001. TITLE AND SCOPE (Rule 1).

01. Title. The title of this chapter is IDAPA 37.02.03, "Water Supply Bank Rules". (6-27-03)T

02. Scope. These rules were first adopted by the Water Resource Board in October 1980 as mandated by Section 42-1762, Idaho Code enacted in 1979. The rules govern the Board's operation and management of a Water Supply Bank provided for in Sections 42-1761 to 42-1766, Idaho Code. The purposes of the Water Supply Bank, as defined by statute, are to encourage the highest beneficial use of water; provide a source of adequate water supplies to benefit new and supplemental water uses; and provide a source of funding for improving water user facilities and efficiencies. These rules are to be used by the Water Resource Board in considering the purchase, sale, lease or rental of natural flow or stored water, the use of any funds generated therefrom, and the appointment of local committees to facilitate the lease and rental of stored water. The purchase, sale, lease or rental of water shall be in compliance with state and federal law. The adoption of these rules is not intended to prevent any person from directly selling or leasing water by transactions outside the purview of the Water Supply Bank Rules where such transactions are otherwise allowed by law. (7-1-93)(6-27-03)T

002. WRITTEN INTERPRETATIONS (Rule 2).

There are no written interpretations of these rules. (6-27-03)T

004. INCORPORATION BY REFERENCE (Rule 4).

No documents have been incorporated by reference into these rules. (6-27-03)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (Rule 5).

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (6-27-03)T

02. Mailing Address. The mailing address for the state office is Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098. (6-27-03)T

03. Street Address. The street address for the state office of the Department of Water Resources, the regional offices in Idaho Falls, Coeur d'Alene, Twin Falls, and Boise, and the satellite offices in Salmon, Soda Springs, and Lewiston may be obtained by calling the state office at (208) 327-7900, or by visiting the Department's website at <http://www.idwr.state.id.us>. (6-27-03)T

006. PUBLIC RECORDS ACT COMPLIANCE (Rule 6).

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. (6-27-03)T

0047. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

040. APPOINTMENT OF LOCAL RENTAL POOL COMMITTEES (Rule 40).

01. Board Meetings For Committee Appointments. The Board may at any regular or special meeting to consider appointing an entity to serve as a local committee to facilitate the lease and rental of stored water. At least ten (10) days prior to the meeting, the entity seeking appointment shall provide to the Director information concerning the organization of the entity, a listing of its officers, a copy of its bylaws and procedures, if applicable, a copy of the proposed local committee procedures, pursuant to which the local committee would facilitate the lease and rental of stored water, together with a copy of each general lease and rental form proposed to be used by the local committee. The local committee procedures must be approved by the Board and must provide for the following: (7-1-93)

2004 - Resource and Environment Senate Pending Rule (Yellow)

DEPARTMENT OF WATER RESOURCES Water Supply Bank Rules

Docket No. 37-0203-0301
Temporary and Proposed Rulemaking

- a. Determination of priority among competing applicants to lease stored water to the rental pool and to rent stored water from the rental pool; (7-1-93)
- b. Determination of the reimbursement schedule for those leasing stored water into the rental pool; (7-1-93)
- c. Determination of the rental price charge to those renting stored water from the rental pool; (7-1-93)
- d. Determination of the administrative charge to be assessed by the local committee; (7-1-93)
- e. Allocation of stored water leased to the bank but not rented; (7-1-93)
- f. Notification of the Department and the watermaster of any rentals where stored water will be moved from the place of use authorized by the permit, license, or decree establishing the stored water right; (7-1-93)
- g. Submittal of applications to rent water from the rental pool for more than five (5) years to the Board for review and approval as a condition of approval by the local committee; (7-1-93)
- h. Prevention of injury to other water rights; (7-1-93)
- i. Protection of the local public interest, except for applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code; (7-1-93)
- j. Consistency with the conservation of water resources within the state of Idaho, except for applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code; (7-1-93)
- k. Management of rental pool funds as public funds pursuant to the Public Depository Law, Chapter 1, Title 57, Idaho Code. (7-1-93)

02. Local Committee Procedures. The local committee procedures shall provide that a surcharge of ten percent (10%) of the rental fee charged per acre foot of stored water rented from the rental pool shall be assessed and credited to the revolving development account and the water management account established in Sections 42-1752 and 42-1760, Idaho Code, in such proportion as the Board in its discretion shall determine. Such moneys, together with moneys accruing to or earned thereon, shall be set aside, and made available until expended, to be used by the Board for the purposes of Rule 1 unless the surcharge is prohibited by statute, compact or inter-governmental agreement. (7-1-93)

03. Review By Director. The Director will review the local committee procedures and submit them along with the Director's recommendation to the Board. The lease and rental form must receive the Director's approval. The Board may designate the applying entity as the local committee for a period not to exceed five (5) years. A Certificate of Appointment will be issued by the Board. The Board may extend the appointment for additional periods up to five (5) years, upon written request of the local committee. The Board may revoke a designation upon request of the local committee, or after a hearing pursuant to the promulgated Rules of Practice and Procedure of the Board, if the Board determines that the local committee is no longer serving a necessary purpose or is not abiding by its own approved procedures, these rules or applicable statutes. (7-1-93)

04. Annual Report. The local committee shall report annually on the activity of the rental pool on forms provided by the Board. (7-1-93)

05. Submission Of Amendments To Procedures To Board. Amendments to the approved procedures of an appointed local committee which change the amount charged for the rental of stored water shall be submitted to the Board by April 1st of any year. The amendment will be considered approved by the Board unless specifically disapproved at the first regular Board meeting following the amendment action of the local committee. The Board may, upon good cause being determined by the Board, specifically approve of amendments submitted after April 1 of any year. (7-1-93)(6-27-03)T

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0301

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule were effective November 14, 2003. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final immediately upon the adjournment sine die of the Second Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to meet the requirements of 40 CFR 131.10(b) by setting water quality standards that protect designated uses in, and ensuring attainment and maintenance of the water quality standards of, downstream waters in Oregon and to meet the schedule for development of TMDLs. This rulemaking sets a standard that reflects the target for dissolved oxygen in the Snake River/Hell's Canyon TMDL. This target was the result of evaluation and agreement between Oregon and Idaho with input from a public advisory team. The rulemaking is also necessary to support the target in the TMDL. New Section 285 has been added to the water quality standards to provide for a site-specific standard for water-column dissolved oxygen in the Snake River along the Idaho/Oregon border. In addition, the description of water body unit SW-1 in Subsection 140.13 has been changed to correct an oversight as to the actual boundaries.

In June 2003 the Board adopted the rule as a temporary rule. In August 2003, the Department of Environmental Quality (DEQ) published the temporary/proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, August 6, 2003, Volume 03-8, pages 130 through 132. DEQ received public comments concerning the proposed rule and has revised the initial proposal at Section 285. Section 140 has been adopted as initially proposed. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned.

SECTION 39-107D, IDAHO CODE, STATEMENT: Section 39-107D, Idaho Code, provides that certain rulemaking requirements must be met if DEQ formulates and recommends to the Board a rule that is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government. Section 39-107D, Idaho Code, does not apply to the proposed site-specific criteria for dissolved oxygen because the adoption of the criteria are necessary to meet, but not exceed, federal law or regulations.

The Clean Water Act requires states to adopt water quality standards that must be submitted to and approved by the U.S. Environmental Protection Agency (EPA). EPA's Clean Water Act regulations at 40 CFR 131.10(b) provide that a state, in designating uses and criteria for those uses, shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.

The state of Idaho and Oregon share, as a boundary, the Snake River. The state of Oregon water quality standards that apply to the Snake River differ from the applicable Idaho water quality standards for dissolved oxygen. As noted above, federal regulations require that Idaho's water quality standards ensure the attainment and maintenance of water quality standards of downstream waters, such as the Snake River in Oregon. In order to meet this federal requirement, the Board has adopted, as site-specific criteria, standards for dissolved oxygen that reflect Oregon's water quality standards. This rulemaking is also necessary to support the target for dissolved oxygen set forth in the Snake River/Hell's Canyon TMDL, which was developed as a requirement of federal law. Because this rule meets, but does not exceed, the requirements of federal law, the provisions of Section 39-107D, Idaho Code, do not apply.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit its web site at

2004 - Resource and Environment Senate Pending Rule (Yellow)

DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Standards/Wastewater Treatment

Docket No. 58-0102-0301 - Pending Rule
Amendment to Temporary Rule

www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Don Essig at (208)373-0502, dessig@deq.state.id.us.

Dated this 14th day of November, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58, TITLE 01, CHAPTER 02

WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 130 through 132.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0102-0301

SECTION 285 (Entire Section)

285. SNAKE RIVER, ~~SUBSECTION 130.01, HUC 17060101, UNIT S1, S2, AND S3;~~ SUBSECTION 140.13, HUC 17050115, UNIT SW1; AND SUBSECTION 140.19, HUC 17050201, UNITS SW1, SW2, SW3 AND SW4, SITE-SPECIFIC CRITERIA FOR WATER-COLUMN DISSOLVED OXYGEN.

The following criteria are to be met in the Snake River at the locations and time periods set forth below: (6-20-03)T

~~01. Hell's Canyon Dam To Salmon River. A minimum of eight (8) mg/l, or where conditions of barometric pressure, altitude, and temperature preclude attainment of eight (8) mg/l, dissolved oxygen levels shall not be less than ninety percent (90%) of saturation. At the discretion of the Department, when the Department determines that adequate information exists, dissolved oxygen shall not fall below a minimum of eight (8) mg/l as a thirty (30)-day mean, a minimum of six and five tenths (6.5) mg/l as a seven (7) day mean of daily minimums, and six (6.0) mg/l~~

2004 - Resource and Environment Senate Pending Rule (Yellow)

DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Standards/Wastewater Treatment

Docket No. 58-0102-0301 - Pending Rule
Amendment to Temporary Rule

as an absolute minimum.

~~(6-20-03)F~~

~~02. **Hell's Canyon Dam To Salmon River During October 23 Through April 15, Where Salmonid Spawning Occurs.** A minimum of eleven (11) mg/l or nine (9) mg/l when the minimum intergravel dissolved oxygen, measured as a spatial median, is eight (8) mg/l or greater; provided, however, where conditions of barometric pressure, altitude, and temperature preclude attainment of eleven (11) mg/l or nine (9) mg/l, dissolved oxygen levels shall not be less than ninety five percent (95%) of saturation.~~

~~(6-20-03)F~~

~~03. **Idaho/Oregon Border To Hell's Canyon Dam.** A minimum of six and five-tenths (6.5) mg/l of water-column dissolved oxygen shall be met in the Snake River from the Idaho/Oregon border to Hell's Canyon Dam.~~

~~(6-20-03)F(11-14-03)T~~

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective June 20, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 22, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to meet the requirements of 40 CFR 131.10(b) by setting water quality standards that protect designated uses in, and ensure attainment and maintenance of the water quality standards of, downstream waters in Oregon and to meet the schedule for development of TMDLs. New Section 285 has been added to the water quality standards to provide for a site-specific standard for water-column dissolved oxygen in the Snake River along the Idaho/Oregon border. In addition, the description of water body unit SW-1 in Subsection 140.13 is being changed to correct an oversight as to the actual boundaries.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2003 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2003 session of the Idaho Legislature if approved by the Legislature.

SECTION 39-107D, IDAHO CODE, STATEMENT: Section 39-107D, Idaho Code, provides that certain rulemaking requirements must be met if DEQ formulates and recommends to the Board a rule that is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government. Section 39-107D, Idaho Code, does not apply to the proposed site-specific criteria for dissolved oxygen because the adoption of the criteria are necessary to meet, but not exceed, federal law or regulations.

The Clean Water Act requires states to adopt water quality standards that must be submitted to and approved by the U.S. Environmental Protection Agency (EPA). EPA's Clean Water Act regulations at 40 CFR 131.10(b) provide that a state, in designating uses and criteria for those uses, shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.

The state of Idaho and Oregon share, as a boundary, the Snake River. The state of Oregon water quality standards that apply to the Snake River differ from the applicable Idaho water quality standards for dissolved oxygen. As noted above, federal regulations require that Idaho's water quality standards ensure the attainment and maintenance of water quality standards of downstream waters, such as the Snake River in Oregon. In order to meet this federal requirement, DEQ has proposed to adopt, as site-specific criteria, standards for dissolved oxygen that reflect Oregon's water quality standards. Because DEQ's proposed rule meets, but does not exceed, the requirements of federal law, the provisions of Section 39-107D, Idaho Code, do not apply.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule complies with deadlines in federal law and confers a benefit.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the temporary rulemaking schedule did not allow for the timing of it.

2004 - Resource and Environment Senate Pending Rule (Yellow)

**DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Standards/Wastewater Treatment**

**Docket No. 58-0102-0301
Temporary and Proposed Rulemaking**

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Susan Burke at (208)373-0502 or sburke@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 5, 2003.

DATED this 25th day of June, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-0301

285. SNAKE RIVER, SUBSECTION 130.01, HUC 17060101, UNIT S1, S2, AND S3; SUBSECTION 140.13, HUC 17050115, UNIT SW1; AND SUBSECTION 140.19, HUC 17050201, UNITS SW1, SW2, SW3 AND SW4, SITE-SPECIFIC CRITERIA FOR WATER-COLUMN DISSOLVED OXYGEN.

The following criteria are to be met in the Snake River at the locations and time periods set forth below. (6-20-03)T

01. Hell's Canyon Dam To Salmon River. A minimum of eight (8) mg/l, or where conditions of barometric pressure, altitude, and temperature preclude attainment of eight (8) mg/l, dissolved oxygen levels shall not be less than ninety percent (90%) of saturation. At the discretion of the Department, when the Department determines that adequate information exists, dissolved oxygen shall not fall below a minimum of eight (8) mg/l as a thirty (30)-day mean, a minimum of six and five-tenths (6.5) mg/l as a seven (7) day mean of daily minimums, and six (6.0) mg/l as an absolute minimum. (6-20-03)T

02. Hell's Canyon Dam To Salmon River During October 23 Through April 15, Where Salmonid Spawning Occurs. A minimum of eleven (11) mg/l or nine (9) mg/l when the minimum intergravel dissolved oxygen, measured as a spatial median, is eight (8) mg/l or greater; provided, however, where conditions of barometric pressure, altitude, and temperature preclude attainment of eleven (11) mg/l or nine (9) mg/l, dissolved oxygen levels shall not be less than ninety-five percent (95%) of saturation. (6-20-03)T

03. Idaho/Oregon Border To Hell's Canyon Dam. A minimum of six and five-tenths (6.5) mg/l. (6-20-03)T

2856. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

2004 - Resource and Environment Senate Pending Rule (Yellow)

DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Standards/Wastewater Treatment**Docket No. 58-0102-0301**
Temporary and Proposed Rulemaking

140. SOUTHWEST IDAHO BASIN.

Surface waters found within the Southwest basin total nineteen (19) subbasins and are designated as follows:
(4-5-00)

Subsections 140.01 Through 140.12 Have No Changes

13. Middle Snake-Payette Subbasin. The Middle Snake-Payette Subbasin, HUC 17050115, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River - Boise River the Idaho/Oregon border to Weiser River	COLD	PCR	DWS
SW-2	Homestead Gulch - source to mouth			
SW-3	Ashlock Gulch - source to mouth			
SW-4	Hurd Gulch - source to mouth			
SW-5	Sand Hollow - source to mouth			

(4-5-00)(6-20-03)T

Subsections 140.14 Through 140.19 Have No Changes

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.10 - RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

DOCKET NO. 58-0110-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule was effective August 22, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Section 39-4405, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

October 20, 2003, 5:30 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: This rulemaking is being undertaken to avoid the potential for radioactive material to be introduced into the environment by indiscriminate disposal. The rule would require that authorities be contacted prior to disposal.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2003 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2004 session of the Idaho Legislature if approved by the Legislature.

SECTION 39-107D, IDAHO CODE, STATEMENT: The proposed rule regulates an activity not regulated by federal law. Federal law, via the Atomic Energy Act of 1954, as Amended (the AEA) regulates the disposal of a large portion of, but not all, radioactive materials. Individual states are left to regulate the disposal of non-AEA radioactive materials. Idaho fulfills this regulatory need with its Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, as Amended, IDAPA 58.01.10. (Idaho's Radioactive Materials Rules). This rule modifies Idaho's Radioactive Materials Rules by adding a notification requirement that applies to all persons with knowledge of radioactive materials being transferred for disposal to a prohibited location, an area not regulated by federal law.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to protect the public health, safety and welfare.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the temporary rulemaking schedule did not allow for the timing of it.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Brian Monson at (208)373-0502 or bmonson@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before October 22, 2003.

DATED this 22nd day of August, 2003.

2004 - Resource and Environment Senate Pending Rule (Yellow)

DEPARTMENT OF ENVIRONMENTAL QUALITY
Disposal of Radioactive Materials

Docket No. 58-0110-0301
Temporary and Proposed Rulemaking

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0110-0301

011. -- 0198. (RESERVED).

019. NOTIFICATION OF RADIOACTIVE MATERIALS.

Any person with knowledge of the transfer, or proposed transfer, of radioactive materials for disposal to any location other than a location authorized by Section 020 to receive radioactive materials for disposal shall notify the Department of the transfer as soon as the transfer takes place or as soon as the person learns of the transfer, or proposed transfer, whichever is sooner. (8-22-03)T

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.10 - RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

DOCKET NO. 58-0110-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Section 39-4405, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking has been undertaken to avoid the potential for radioactive material to be introduced into the environment by indiscriminate disposal. The rule requires that authorities be contacted prior to disposal. In August 2003 the Board adopted the rule as a temporary rule. In October 2003, the Department of Environmental Quality (DEQ) published the temporary/proposed rule, inviting the public to comment on the rule. The rule has been adopted as initially proposed in the Idaho Administrative Bulletin, October 1, 2003, Volume 03-10, pages 586 through 587. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for adopting the rule is included in the rulemaking record, which can be obtained by contacting the undersigned.

SECTION 39-107D, IDAHO CODE, STATEMENT: The rule regulates an activity not regulated by federal law. Federal law, via the Atomic Energy Act of 1954, as Amended (the AEA) regulates the disposal of a large portion of, but not all, radioactive materials. Individual states are left to regulate the disposal of non-AEA radioactive materials. Idaho fulfills this regulatory need with its Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, as Amended, IDAPA 58.01.10. (Idaho's Radioactive Materials Rules). This rule modifies Idaho's Radioactive Materials Rules by adding a notification requirement that applies to all persons with knowledge of radioactive materials being transferred for disposal to a prohibited location, an area not regulated by federal law.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at (208)373-0502 or jbrueck@deq.state.id.us.

Dated this 14th day of November, 2003.

Paula J. Gradwohl - Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481/ pgradwoh@deq.state.id.us

IDAPA 58, TITLE 01, CHAPTER 10

RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 586 and 587.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2004 Idaho State Legislature for final approval. The rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized Sections 39-105, 39-107, and 67-5206, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2003, Volume 03-8, pages 162 through 167. The agency received no public comments on the proposed rule; however, the Board revised the rule at Sections 047 and 351. In Section 047, the number of days for publishing a legal notice was changed from 10 to 14. In Section 351, "demonstrate that" was changed to "state briefly why." The rulemaking record can be obtained by contacting the undersigned.

SECTION 39-107D, IDAHO CODE, STATEMENT: This rule regulates an activity not regulated by the federal government. The federal government does not regulate administrative procedures for the state of Idaho.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Paula Gradwohl at (208)373-0418, pgradwoh@deq.state.id.us.

DATED this 24th day of October, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58, TITLE 01, CHAPTER 23

RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

There are substantive changes from the proposed rule text.

**Only those sections that have changed from the original proposed
text are printed in this Bulletin following this notice.**

2004 - Resource and Environment Senate Pending Rule (Yellow)

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 162 through 167.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

*Language That Has Been Deleted From The Original Proposed Rule
Text Has Been Removed And New Language Is Shown In Italics*

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0123-0301

SECTION 047 (Entire Section)

047. PUBLIC NOTICE OF PETITION FOR CONTESTED CASE AND DECLARATORY RULING.

Within fourteen (14) days of the date a petition for contested case or declaratory ruling is filed with the Board, the Board shall give reasonable notice to the public. The methods for giving notice shall include, at a minimum, the following: ()

01. Publication. Publishing a one-time legal notice in the newspaper of general circulation in the county in which the petitioner resides or in which the facility or other subject of the petition is located. The legal notice shall describe the nature of the action initiated by the filing of the petition and shall include the date the petition was filed, the date by which petitions to intervene must be filed, and a method by which interested persons can obtain a copy of the petition. ()

02. Mail. Mailing a copy of the legal notice prepared in accordance with Subsection 047.01 to persons on any mailing list developed by the Department relating to the subject matter of the petition for contested case or declaratory ruling. ()

SECTION 351 (Entire Section)

351. FORM AND CONTENTS OF PETITIONS TO INTERVENE.

Petitions to intervene must comply with Sections ~~200 through 349~~ 008, 044, and 300. The petition must set forth the name and address of the potential intervenor, ~~and must~~ state the direct and substantial interest of the potential intervenor in the proceeding, and *state briefly why the intervention would not unduly broaden the issues and cause delay or prejudice to the parties.* If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (3-15-02)()

2004 - Resource and Environment Senate Pending Rule (Yellow)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized Sections 39-105, 39-107, and 67-5206, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 20, 2003. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Rules of Administrative Procedure Before the Board of Environmental Quality were first adopted by the Board of Environmental Quality in 2001. Since that time, several petitions to initiate contested cases have been filed with the Board, giving an opportunity to apply the rules to contested case proceedings. Certain difficulties in implementing the rules have been identified. The purpose of this rulemaking is to address those issues. In this rulemaking, public notice requirements have been established and procedures for filing petitions have been modified. This rulemaking also clarifies the procedures for intervention (Sections 351 through 355), review and reconsideration of interlocutory orders (Sections 710 and 711), and Section 101, Department Action Not Stayed. This rulemaking will affect any citizen of the state of Idaho and/or regulated industry appealing an action of the Department of Environmental Quality to the Board of Environmental Quality or having a direct and substantial interest in a proceeding filed with the Board.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2003 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2004 session of the Idaho Legislature if approved by the Legislature.

SECTION 39-107D, IDAHO CODE, STATEMENT: This rule regulates an activity not regulated by the federal government. The federal government does not regulate administrative procedures for the state of Idaho.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812 - 815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, May 7, 2003, Vol. 03-5, page 28.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Paula Gradwohl at (208) 373-0418 or pgradwoh@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before September 3, 2003.

Dated this 25th day of June, 2003.

2004 - Resource and Environment Senate Pending Rule (Yellow)

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0123-0301

008. FILING AND SERVICE OF DOCUMENTS.

01. Filing of Documents. (3-15-02)

a. All documents concerning actions governed by these rules shall be filed with the hearing coordinator at the following address: Hearing Coordinator, Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, FAX No. (208)373-0481. With the exception of petitions initiating a contested case, declaratory ruling, or rulemaking, pleadings and other documents may be filed by facsimile transmission (FAX). The originating party is responsible for retaining proof of filing by FAX. The documents are deemed to be filed on the date received by the hearing coordinator. Upon receipt of the filed document, the hearing coordinator will provide a conformed copy to the originating party. (3-15-02)()

b. Upon receipt of a petition initiating a contested case, rulemaking, or declaratory ruling, the hearing coordinator shall serve the petition upon the Department. In any proceeding involving a permit, the hearing coordinator shall serve upon the permit applicant or permit holder the petition and a notice informing the permit applicant or permit holder that they have twenty-one (21) days after the date of service of the petition to intervene in the proceeding and that they may be bound by any decision rendered in the proceeding. (3-15-02)

02. **Service Of Documents.** From the time a party files its petition initiating a contested case, rulemaking or, declaratory ruling, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties or representatives designated pursuant to Section 044, unless otherwise directed by order or notice or by the presiding officer. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The parties may serve courtesy copies upon the presiding officer. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

046. ~~047.~~ (RESERVED).

047. **PUBLIC NOTICE OF PETITION FOR CONTESTED CASE AND DECLARATORY RULING.**

Within ten (10) days of the date a petition for contested case or declaratory ruling is filed with the Board, the Board shall give reasonable notice to the public. The methods for giving notice shall include, at a minimum, the following: ()

01. **Publication.** Publishing a one-time legal notice in the newspaper of general circulation in the county in which the petitioner resides or in which the facility or other subject of the petition is located. The legal notice shall describe the nature of the action initiated by the filing of the petition and shall include the date the

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petition was filed, the date by which petitions to intervene must be filed, and a method by which interested persons can obtain a copy of the petition. ()

02. Mail. Mailing a copy of the legal notice prepared in accordance with Subsection 047.01 to persons on any mailing list developed by the Department relating to the subject matter of the petition for contested case or declaratory ruling. ()

(BREAK IN CONTINUITY OF SECTIONS)

050. FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS.

Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the Department must comply with this rule. (3-15-02)

01. Form. The petition shall: (3-15-02)

a. Identify the petitioner and state the petitioner's interest in the matter; (3-15-02)

b. State the declaratory ruling that the petitioner seeks; and (3-15-02)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (3-15-02)

02. Legal Assertions. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-15-02)

03. Filing. The petitioner shall file the original and two (2) copies of the petition with the hearing coordinator in accordance with Section 008. ()

051. ~~NOTICE OF PETITION FOR DECLARATORY RULING (RESERVED).~~

~~If the Board determines that the subject matter of a petition for declaratory ruling is of interest to the public, notice of receipt of the petition may be issued by the Board pursuant to the requirements of Chapter 1, Title 60, Idaho Code.~~ (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

101. DEPARTMENT ACTION NOT STAYED.

An action or inaction of the Department, or any portion thereof, which is the subject of a proceeding governed by these rules, is not stayed unless, upon a motion filed by a party, it is so ordered by the presiding officer. This section does not apply to Department action governed by Section 67-5254(1), Idaho Code. The stay may be ordered upon appropriate terms. (3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

211. PETITIONS TO INITIATE CONTESTED CASE -- DEFINED -- FORM AND CONTENTS.

01. Defined. The pleading initiating a contested case is called a "petition". (3-15-02)

02. Form And Contents. The form and contents of a petition initiating contested cases shall: (3-15-02)

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- a. Fully state the facts upon which it is based, including the specific alleged action or inaction of the Department; (3-15-02)
- b. Refer to the particular provisions of statute, rule, order or other controlling law upon which it is based; (3-15-02)
- c. State the relief sought; and (3-15-02)
- d. State the name of the person petitioned against (the respondent), if any. (3-15-02)
- e. State the basis for the petitioner's legal standing to initiate the contested case. (3-15-02)

03. Filing. The petitioner shall file the original and two (2) copies of the petition with the hearing coordinator in accordance with Section 008. ()

212. RESPONSES IN CONTESTED CASES -- DEFINED -- FORM AND CONTENTS.

01. Defined. The pleading filed by the respondent in response to the petition initiating the contested case is called a "response". (3-15-02)

02. Form And Contents. The form and contents of a response to a petition initiating a contested case shall: (3-15-02)

- a. Separately admit or deny to each factual averment in the petition; (3-15-02)
- b. Separately admit or deny the applicability of each legal authority asserted in the petition; (3-15-02)
- c. Fully state any additional facts necessary to decision of the contested case; (3-15-02)
- d. Refer to any additional provisions of statute, rule, order or other controlling law upon which it is based; and (3-15-02)
- e. State the relief sought. (3-15-02)

03. Filing And Service. Responses to petitions must be filed and served on all parties of record within twenty-one (21) days after service of the petition, unless an order or stipulation modifies the time within which a response may be made, or a motion to dismiss is filed within twenty-one (21) days. When a response is not timely filed under this rule, the presiding officer may enter a default order pursuant to Sections 700 through 702. (3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

351. FORM AND CONTENTS OF PETITIONS TO INTERVENE.

Petitions to intervene must comply with Sections ~~200 through 349~~ 008, 044, and 300. The petition must set forth the name and address of the potential intervenor, ~~and must~~ state the direct and substantial interest of the potential intervenor in the proceeding, and demonstrate that the intervention would not unduly broaden the issues and cause delay or prejudice to the parties. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (3-15-02)()

352. TIMELY FILING OF PETITIONS TO INTERVENE.

01. General. Petitions to intervene must be filed ~~at least~~ within fourteen (14) days ~~before the date set~~

2004 - Resource and Environment Senate Pending Rule (Yellow)

DEPARTMENT OF ENVIRONMENTAL QUALITY Rules of Administrative Procedure Before the DEQ Board

Docket No. 58-0123-0301
Proposed Rulemaking

~~for the prehearing conference~~ of publication of the notice of filing of the petition initiating a contested case or declaratory ruling as provided in Section 047 unless a different time is provided by order or notice. ~~(3-15-02)~~(____)

02. Proceedings Involving A Permit. In any proceeding involving a permit, petitions to intervene by the permit applicant or permit holder must be filed within twenty-one (21) days after service of the initiating petition as provided in Subsection 008.01.b. (3-15-02)

03. Petitions Not Timely Filed. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors are bound by orders and notices entered earlier in the proceeding. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

354. ORDERS GRANTING INTERVENTION -- OBJECTIONS.

~~No petition to intervene will be acted upon fewer than seven (7) days after its filing.~~ Any party opposing a petition to intervene, must file the objection within seven (7) days after receipt of the petition to intervene and serve the objection upon all parties of record and upon the person petitioning to intervene. Responses shall be filed within seven (7) days after service of the objection. ~~(3-15-02)~~(____)

355. REVIEW OF ORDERS GRANTING OR DENYING INTERVENTION.

Any party may petition the Board to review an order granting or denying intervention. Petitions for review shall be filed within fourteen (14) days after service of the order. Responses shall be filed within fourteen (14) days after service of the petition for review. The Board may schedule oral argument in the matter before issuing a decision. (____)

~~3556.~~ -- 409. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

710. INTERLOCUTORY ORDERS.

Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the ~~Board~~ presiding officer may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review ~~by appeal~~, but is not final on other issues. Unless an order contains or is accompanied by a document containing one (1) of the statements set forth in Sections 730 or 740 or a statement substantially similar, the order is interlocutory. The following orders are always interlocutory: orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention (an order regarding intervention, however, may be reviewed by the Board as provided in Section 355); orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders limiting, compelling or refusing to compel discovery. ~~(3-15-02)~~(____)

711. REVIEW RECONSIDERATION OF INTERLOCUTORY ORDERS.

Any party ~~or person affected by an interlocutory order~~ may ~~petition the presiding officer issuing the order to review the~~ file a motion for reconsideration of an interlocutory order within fourteen (14) days after service of the order. The presiding officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the presiding officer's own motion, but will not on the presiding officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. ~~(3-15-02)~~(____)

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(BREAK IN CONTINUITY OF SECTIONS)

800. FORM AND CONTENTS OF PETITION TO INITIATE RULEMAKING.

This rule addresses petitions to initiate rulemaking as described by Section 67-5230, Idaho Code. (3-15-02)

01. Requirement. Any person petitioning for initiation of rulemaking must comply with this rule. (3-15-02)

02. Form And Contents. The form and contents of a petition ~~must be filed with the hearing coordinator as set out in Section 008 and~~ to initiate rulemaking shall: (3-15-02)()

a. Identify the petitioner and state the petitioner's interest(s) in the matter; (3-15-02)

b. Describe the nature of the rule or amendment to the rule urged to be promulgated and the petitioner's suggested rule or amendment; and (3-15-02)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the proposed rulemaking. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-15-02)

03. Filing. The petitioner shall file the original and two (2) copies of the petition with the hearing coordinator in accordance with Section 008. ()

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